



Malaysia

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Malaysia is a federation of 13 states and 3 federal territories with a parliamentary system of government based on periodic multiparty elections in which the ruling National Front coalition has held power for more than 40 years. Opposition parties actively contest elections, but face significant obstacles in competing with the long-entrenched ruling coalition. However, in the November 1999 elections, opposition parties won roughly 25 percent of the seats in the Federal Parliament, and an opposition party also retained control of one state government and gained control of another. The Constitution provides for an independent judiciary; however, government action, constitutional amendments, legislation, and other factors undermine judicial independence and strengthen executive influence over the judiciary. The impartiality of the judiciary appeared to improve during the year, as some high-profile decisions were made and controversial decisions and politically-charged cases from previous years were reversed or dropped according to the legal merits of the case.

The Royal Malaysian Police have primary responsibility for internal security matters. The police report to and are under the effective control of the Home Minister. Some members of the police committed human rights abuses.

Malaysia is an advanced developing country with a population of approximately 23 million, an estimated per capita gross domestic product of \$3,850, and an unemployment rate of roughly 3 percent. Following nearly a decade of strong economic growth averaging over 8 percent annually, it was hit hard by the 1997 regional financial and economic crisis. After contracting by 7.5 percent in 1998, the economy began to recover, and expanded 6.1 percent in 1999 and 8.3 percent in 2000. In response to falling demand in export markets, economic growth slowed during the year. Analysts expect the economy to grow from 1 to 3 percent during the year. The Government has continued with its stimulative fiscal and monetary policies. The Government takes an active role in the development of the export-oriented economy. Manufacturing accounts for 31.1 percent of GDP, services for 50.7 percent, agriculture for 8.4 percent, construction for 3.3 percent, and mining for 6.5 percent. Principal manufactured products include semiconductors, consumer electronics, electrical products, textiles, and apparel. Oil and gas, palm oil, natural rubber, cocoa, and tropical timber are also significant contributors to the economy.

The Government generally respected its citizens' rights in some areas; however, its record was poor in a number of other areas, and significant problems remain. Police committed a number of extrajudicial killings, and authorities prosecuted the perpetrators in some of these cases. Police on occasion tortured, beat, or otherwise abused prisoners, detainees, and demonstrators. In 1999, an Inter-Parliamentary Union (IPU) delegation found that prison conditions were not in accord with international norms; the Government subsequently took some steps to improve prison conditions. Conditions in the detention facilities of illegal aliens continued to pose a threat to health, although marginal improvements in food and water rations were reported. The trial of a prominent human rights activist on charges arising from her criticisms of such conditions continued. At year's end, the trial still was ongoing. Police increased their use of the Internal Security Act (ISA) to arrest and detain many persons, including members of the political opposition, without charge or trial. In addition, police continued to use several other statutes to arrest and detain many persons without charge or trial (see Section 1.d.).

Prolonged pretrial detention is a serious problem. Detained criminal suspects often were denied access to legal counsel prior to being charged formally. Many observers expressed serious doubts about the independence and impartiality of the judiciary, especially in high-profile cases. The politically motivated convictions of former Deputy Prime Minister Anwar on charges of corruption and sodomy in 1999 and 2000 demonstrated the judiciary's lack of independence. However, while many observers continued to express doubts about the independence and impartiality of the judiciary, reforms instituted by the new chief justice

appear to have led to some improvements in these areas. The remaining libel suits against a U.N. Special Rapporteur on Judicial Independence were dropped during the year. Politically motivated, selective prosecution decreased during the year; however, it continued to be a concern as authorities continued to infringe on citizens' privacy rights in some instances.

Government restrictions, pressure, and intimidation led to a high degree of press self-censorship. The Government continued to limit the publication of an opposition party newspaper, and refused to renew the publication permits of several other political weeklies. It also routinely delayed the release of issues of several foreign weekly magazines. Independent on-line newspapers operated without government interference, but one on-line outlet was subjected to an intermittent government campaign to undermine its credibility. In 1999 a U.N. Special Rapporteur reported that the Government systematically curtailed freedom of expression. The Government did not respond to the report by year's end. The Government increased restrictions on freedom of assembly and some peaceful gatherings, particularly those organized by the political opposition. The threat of slander and libel awards against journalists and media publications diminished during the year; however, these slander and libel awards represented a restraint on press freedom. The Government continues to restrict significantly freedom of association. The Government cracked down on student participation in political activities, and detained several students under the ISA. The Government places some restrictions on religious freedom, in particular the right of Muslims to practice teachings other than Sunni Islam or to convert to other religions. The Government continued to impose some restrictions on freedom of movement. Government policies create significant restrictions on opposition parties' ability to compete effectively with the ruling coalition. The Election Commission's lack of independence impedes it from effectively enforcing election results and monitoring elections. The Government continued to criticize harshly human rights NGO's, but also met with several such groups during the year. The Government established a National Human Rights Commission in 2000. Despite some limitations on its scope, and a lack of enforcement powers, the Commission established several human rights working groups and in certain cases acted as a credible check on government authority and policy. Despite government efforts, societal violence and discrimination against women remain problems. Sexual abuse of children is a problem, although it is punished severely. Indigenous people face discrimination and often are exploited, especially in regard to land issues. Longstanding policies give preferences to ethnic Malays in many areas, and ethnic minorities face discrimination. Some restrictions on worker rights persist. Child labor persists, although the Government has taken vigorous action against it. The country is a source, transit, and destination country for trafficking in women and girls for the purpose of prostitution.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary and Unlawful Deprivation of Life

There were no reports of political killings; however, police committed a number of extrajudicial killings. Police leadership continued efforts to curb such abuses during the year, including inviting the U.N. Human Rights Commission to provide human rights training to police officers and meeting with members of The Human Rights Commission.

At year's end, the press reported that the police had killed 26 persons while apprehending them.

In January 1999, the Bar Council called on the police to implement a standard procedure to investigate every lethal shooting by police; however, the police did not implement such a procedure. By year's end the Government had not formed an independent commission to investigate police killings, as was recommended by a group of 119 domestic NGO's in February 1999. On April 30, police reportedly killed three men suspected of robbery at Subang Mewah, Shah Alam, Selangor. On June 8, police reportedly killed a man suspected of drug dealing, following a high-speed car chase. The police alleged he had tried to ram the patrol car. On August 23, police killed one man and seized an assortment of weapons, drugs and pornographic materials in Melaka.

There were developments in two cases of extrajudicial killing from previous years. In October a negligence suit brought by two girls whose parents (who allegedly were involved in a kidnaping) were shot and killed by police was settled out of court. In May a Coroner's Court ruled that there was no criminal wrongdoing in the fatal shooting at close range by police officers of six men who were shot in 1998.

b. Disappearance

There were no reports of politically motivated disappearances.

By year's end, all of the hostages held by a Filipino militant group had been released and authorities plan to take no further action in these cases.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

No constitutional provision or law specifically prohibits torture, although laws that prohibit "committing grievous hurt" encompass torture; however, at times some police tortured, beat, and otherwise abused prisoners, detainees, and other citizens. The authorities investigated some police and other officials for such abuses; however, the Government does not release routinely information on the results of investigations, and whether those responsible are punished is not always known.

Police sometimes abuse detainees. There were several press reports of persons who alleged being tortured or mistreated while detained by the police. For example, in March a truck driver suspected of trafficking drugs told the High Court that he was kicked in the ribs and head by police officers until his eyebrows started to bleed. An opposition activist detained in April under the ISA also reported being harshly treated by police while in detention. He said that, among other things, he had been knocked from a chair while handcuffed. In response to such reports, the Government continued to require police to attend community relations and ethics courses to address public concerns over police misconduct.

Malaysian NGO's have stated that police sometimes subject criminal suspects and illegal alien detainees to physical and psychological torture during interrogation and detention. In June former Police Chief Rahim Noor was released early for good behavior after serving 40 days of his 2-month jail sentence for "causing hurt" to former deputy Prime Minister Ibrahim. Rahim had pleaded guilty to beating Anwar in 1998 while Anwar was handcuffed and blindfolded in police custody. Charges of attempted assault were reduced as part of a plea bargain. Rahim had earlier paid a fine of \$525 (RM 2000) for assaulting Anwar. No action has been taken against senior police officers who failed to arrest or report Rahim after the beating.

During the year, there was no response from the Government to charges that psychological pressures and threats of physical coercion had been used in previous years to obtain confessions in the politically sensitive trials of former Deputy Prime Minister Anwar Ibrahim. In July 2000, the case against fashion designer Mior Abdul Razak bin Yahya for fabricating evidence was dismissed as "not amounting to an acquittal," after being postponed four times. Mior had sworn in an affidavit that police had threatened and abused him after he was detained in September 1998, causing him to confess falsely to having had sexual relations with the former Deputy Prime Minister. In February Anwar's codefendant, Sukma Darmawan, testified that he had confessed falsely to a homosexual relationship with Anwar under police pressure in exchange for a promise that he would be released for such testimony. One other alleged homosexual partner of Anwar's gave a consistent description of the psychological and physical abuse used by police to force similar confessions from him. In November Sukma was released from custody, although he was not acquitted of providing false evidence at Anwar's corruption trial.

At year's end, there had not been a government response to the March 1999 police report filed by opposition activist Abdul Malek bin Hussin in which he accused police of torturing him in 1998 while he was detained without charge under the ISA (see Section 1.d.).

During the year, riot police several times forcibly dispersed peaceful demonstrators around the country, using truncheons, water cannons, and tear gas (see Section 2.b.). For example, in February police broke up an opposition event in the state of Kedah with water cannons containing chemically-laced water. In August the Human Rights Commission released a report on police actions during an opposition demonstration in November 2000. The Commission faulted police for inciting some of the violence, attacking the dispersing crowd, and mistreating some of the persons who were detained during the incident. In a separate report on freedom of assembly, a related Commission made detailed recommendations related to the proper policing of public assemblies and called for police officers that used excessive force to be identified and held accountable. There were no reports that the Government has implemented the commission specific recommendations.

Opposition activist Tian Chua claimed that police beat him in August 2000 after they detained him during a demonstration outside the courthouse where Anwar Ibrahim was being convicted and sentenced on sodomy charges. At year's end, there had been no inquiries into the case.

Logging companies reportedly used police force and intimidation to appropriate land from indigenous Iban and Penan communities in Sarawak (see Section 5).

Criminal law prescribes caning as an additional punishment to imprisonment for those convicted of some nonviolent crimes such as narcotics possession, criminal breach of trust, and alien smuggling. Judges routinely

include caning in sentences of those convicted of such crimes as kidnaping, rape, and robbery. Some state Islamic laws, which bind only Muslims (see Section 1.e.), also prescribe caning. The caning, which is carried out with a 1/2-inch-thick wooden cane, commonly causes welts, and it sometimes causes scarring. Male criminals age 50 and above and women are exempted from caning. According to the provisions of the Child Act passed in December, male children may be given up to 10 strokes of a "light cane" (see Section 5).

Prison conditions are poor. During the year, the Human Rights Commission called for prison authorities to provide standard medical treatment and food for prisoners. The authorities in 1999 announced that changes would be made concerning prison conditions, in the wake of a 1999 report by the Inter-Parliamentary Union on the treatment in prison of then political prisoner Lim Guan Eng. The report found that the conditions of Lim's imprisonment did not comply with the U.N. Standard Minimum Rules (Treatment of Prisoners) and the U.N. Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment. The report cited portions of the Minimum Rules that concern light, ventilation, and proper bedding, and Principle 6 of the Body of Principles, which prohibits torture or cruel, inhuman, or degrading treatment. However, the delegation that drafted this report did not visit Lim in prison, and therefore was unable to make direct observations. The Government stated that Lim was detained under the same conditions as other prisoners and in accordance with the colonial-era 1952 Prison Rules and the 1995 Prisons Act, which, the Government contended, met the standards of the U.N. Minimum Rules.

Prison overcrowding is a serious problem. However, after visiting a number of prisons several Human Rights Commissioners said that in general they were satisfied that conditions in those prisons were acceptable. In June the Director General of Prisons said that the country's 34 prisons held 29,000 inmates; The prisons are designed to have a capacity of 22,000. During the year, a moral rehabilitation center was built, but two promised juvenile reform schools were not. In March 2000, the Deputy Home Minister announced that five more prisons were to be built by 2005. "Security" prisoners (see Section 1.d.) were detained in a separate detention center.

Credible reports by former prisoners indicated that guards at some prisons regularly beat prisoners convicted of criminal offenses.

NGO's and former detainees have made credible allegations of inadequate food, poor medical care and sanitation, and abuse by guards in government camps for illegal immigrants. Conditions are considered to have improved with increased food and water rations, and vitamin B shots for detainees suffering from beri-beri. In past years, there were reports of deaths, poor conditions, and serious abuse of inmates at the camps of Burmese Rohingya illegal immigrants.

Deputy Home Minister Ong Ka Ting told Parliament in 1999 that the Government had completed a review of prison rules and made amendments that would improve the management of prisoners, although no such amendments have been made public. Deputy Prime Minister Abdullah Badawi announced in April 2000 that the Government had spent over \$250,000 (1 million RM) during the year to provide every prisoner with a mattress, although this had not been confirmed by independent monitors by year's end. In August prison officials announced that a number of prison rules would be reviewed. Officials stated that these changes would include allowing female prisoners to keep children with them until age 4 instead of the existing restriction to age 3 and expanding visiting privileges, although none of these changes had been made by year's end.

The law provides that young boys and girls in remand (judicially approved detention) may be placed in prison. The local press reported in September 2000 that children as young as 10 years old were held in prisons for offenses such as petty theft or involvement in school fights. Although kept in a separate cellblock, they reportedly mingled with adult prisoners during communal activities. However, a prison official claimed that the juvenile prisoners, 82 of whom were waiting for their cases to be heard, are kept separately from adult prisoners at all times. In September the Government identified 2,061 juveniles held in 26 prisons throughout the country.

The Government has an agreement with the International Committee of the Red Cross (ICRC) that permits visits to certain categories of prisoners. The ICRC has not been requested to make such visits. Members of the Human Rights Commission visited several prisons during the year, and stated that they were satisfied that conditions were acceptable. According to one ICRC representative, prison conditions do not represent a significant problem. NGO's and the media generally are not permitted to monitor prison conditions. Access to illegal alien detention camps is restricted.

d. Arbitrary Arrest, Detention, or Exile

Police continued to use several statutes to arrest and detain many persons without charge or trial. Suspects in some crimes (called "sizable offenses") may be arrested without warrants; suspects in other crimes

("nonsizable offenses") may be arrested only based on a warrant from a magistrate. Crimes characterized as bailable offenses permit suspects to present bail at the police station according to a schedule. Bail is not available for nonbailable offenses and sometimes also is denied in other circumstances, for example, great risk of flight. Police may hold suspects for 24 hours without charge. Police may request a magistrate to extend the period of remand without charge for up to 2 weeks. After this extension, the police, if they wish to hold the suspect, must charge him and seek an order of detention from a magistrate. In some cases, police have released suspects under remand and quickly rearrested them on new but similar charges. However, in general police practice is in accord with legal provisions concerning detention.

Police may deny prisoners under remand access to legal counsel and routinely they do so. During this period of remand, police also may question suspects without giving them access to counsel. Police justify this practice as necessary to prevent interference in ongoing investigations. Judicial decisions have generally upheld this practice. Defendants' advocates claimed that the lack of access to counsel seriously weakened defendants' legal rights.

Three laws permit the Government to detain suspects without judicial review or the filing of formal charges: the Internal Security Act (ISA), the Emergency (Public Order and Prevention of Crime) Ordinance, and the Dangerous Drugs Act (Special Preventive Measures). The ISA, which originally was enacted when there was an active communist insurgency, empowers the police to hold for up to 60 days any person who may act "in a manner prejudicial to the security of Malaysia." The Home Minister may authorize further detention for periods of up to 2 years. Those released before the end of their detention period are subject to "imposed restricted conditions" for the remainder of their detention periods. These conditions limited their rights to freedom of speech, association, and travel outside the country.

According to the Government, the goal of the ISA is to control internal subversion. According to the local human rights NGO Suaram, as of November there were 78 persons in detention under the ISA. Deputy Home Minister Datuk Zainal Abidin Zin stated in July that 4,190 persons have been arrested under the ISA since its inception in 1960.

The ISA often is used against what the Government considers nonpolitical crimes, including those against ostensibly "deviant" Muslim groups. The Government states that deviant groups pose a danger to national security because of their radical beliefs. The ISA, and the threat of invoking the ISA, also are used to intimidate and restrict political dissent. The Government increased its use of the ISA during the year, including against members of the political opposition. For example, in April the government used the ISA to detain 10 political activists who were leaders of, or closely associated with, the opposition National Justice Party (Keadilan), claiming that they represented a threat to national security. Six of these individuals received a 2-year detention order and remain in detention. In November, one of these six individuals was released from prison but kept under restricted residence. Two of the detainees who had been released earlier claimed that, during their interrogations while in police custody, they had been questioned only about their political beliefs and personal life but not about the alleged offenses for which they initially had been detained. In July two university students were detained under the ISA for participating in opposition political activities, including protesting against the ISA itself. Both were released within 60 days. In August police detained at least 10 members of an Islamic militant group--the so-called Kumpulan Mujahidin Malaysia (KMM)--under the ISA, for their reported involvement in antigovernment violence and their plans to conduct an antigovernment campaign of violence in the future. A newspaper reported that the group had intended to attack members of a U.S. Navy vessel visiting the country. Some of those arrested are members of the opposition Islamic Party (PAS), and one, the group's alleged leader, Nik Adli, is also the son of PAS leader and Chief Minister of Kelantan Nik Aziz. Nine of the 10 were ordered detained 2 years by the Home Affairs Minister. An additional six members of a related group were detained under the ISA in October. In December five of these individuals were ordered detained for 2 years by the Home Affairs Minister. The other individual was released without conditions. In 1998 the police detained Anwar Ibrahim and 27 of his followers under the ISA after a series of largely peaceful antigovernment demonstrations. The Government claimed that the demonstrations threatened national security (see Sections 1.e. and 2.b.).

Security authorities sometimes wait several days after detention before informing an ISA detainee's family. Even when there are no formal charges, the authorities must inform detainees of the accusations against them and permit them to appeal to an advisory board for review every 6 months. However, advisory board decisions and recommendations are not binding on the Home Minister, are not public, and often are not shown to the detainee. In the past, some ISA detainees have refused to participate in the review process under these circumstances.

Amendments to the ISA in 1987 sharply circumscribed judicial review of ISA detentions. Although the Bar Council has in the past asserted that detentions under the ISA should be subject to judicial review on both procedural and substantive grounds, the courts have not concurred with this interpretation, and they review ISA detentions only on technical grounds. Detainees freed on technical grounds nearly always are detained

again immediately. However, in May Shah Alam High Court Judge Hishamuddin Mohd Yunus ordered the release of two opposition leaders who were detained in April under the ISA, calling their detentions unlawful and mala fide. In his ruling, the judge said that the police could not simply cite the ISA's function to "preserve national security" as justification for its use. Additionally, the judge included a special provision in his ruling that forbids the police from rearresting the two individuals in the first 24 hours after their release. As of the year's end, the two had not yet been rearrested. The Federal Court agreed to review this decision and that of another High Court Judge who upheld the detentions under the ISA of five other opposition activists. In August, a five-member Federal Court panel ruled that the five defendants could introduce affidavits with fresh information to contest their detentions.

Although there were new procedures announced in 2000 for ISA detention, which included amendments that senior police officials must concur with ISA detentions, by year's end the procedures were not implemented.

Opposition leaders and human rights organizations continued to call on the Government to repeal the ISA and other legislation that deprived persons of the right to defend themselves in court. For example, in May a group of 71 NGO's and opposition parties joined together to form the "Abolish the ISA Movement" (AIM). The group organized conferences, hosted a web site, and staged other events to broadcast its opposition to the ISA. In July it submitted a proposal to Parliament to repeal the ISA. However, during the year, a number of ruling coalition politicians and government officials continued to state that the ISA remained necessary and would not be repealed. In the latter half of the year, the Government stepped up its pro-ISA rhetoric. Prime Minister Mahathir stated in September that the ISA was a necessary tool in combating the country's own terrorist threat.

Under the Emergency Ordinance the Home Minister may issue a detention order for up to 2 years against a person if he deems it necessary to protect public order, or for the "suppression of violence, or the prevention of crimes involving violence." In practice the Government has used the Emergency Ordinance for other reasons. According to Suaram, as of July 309 persons had been detained under the ordinance during the year.

Provisions of the Dangerous Drugs Act (Special Preventive Measures) give the Government specific power to detain suspected drug traffickers without trial. Such suspects may be held for up to 39 days before the Home Minister must issue a detention order. Once the Ministry has issued an order, the detainee is entitled to a hearing before a court. In some instances, the judge may order the detainee's release. Suspects may be held without charge for successive 2-year intervals with periodic review by an advisory board, whose opinion is binding on the Home Minister. However, the review process contained none of the procedural rights that a defendant would have in a court proceeding. The police frequently detained suspected narcotics traffickers under the Special Preventive Measures after the traffickers were acquitted of formal charges--often as they left the courtroom. As of November, the Government had detained 1,820 persons under this measure. The Government detained over 1,300 persons under this law in 2000.

Immigration laws are used to detain possible illegal aliens without trial or hearing. The detainees are not accorded any administrative or legal hearings and are released only after their employers prove their legal status. Those who were able to produce legal documents normally were released immediately; those who were unable to prove their legal status often were held for extended periods before deportation. Illegal aliens were kept in detention centers that are separate from prisons (see Section 1.c.).

Crowded and understaffed courts often result in lengthy pretrial detention, sometimes lasting several years. In 1998 the Prison's Director General stated that roughly half of the prison population consisted of prisoners who had not yet been sentenced. Most such prisoners either have been convicted and are awaiting sentence or are in the midst of their trials.

Law enforcement authorities also used the Restricted Residence Act to restrict movements of criminal suspects for an extended period. The act allows the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for 2 years. The Ministry is authorized to issue the banishment orders without any judicial or administrative hearings. Human rights activists have questioned the need for this law, which was passed more than 60 years ago (during British sovereignty) under very different circumstances, and they have called for its repeal. The Government has continued to justify the act as a necessary tool and has used it in the past, primarily to combat vice and gambling offenses. The Government has not disclosed how many persons were subject to the Restricted Residence Act and no accurate estimate was available. In April 2000, there were 93 persons held in prison waiting to be placed under restricted residence, and 17 of these persons were released from prison into restricted residence.

Since 1997 the "forgotten prisoners" have been released over a period of two to three years. There are no more "forgotten prisoners" in the country.

Section 396 of the Criminal Procedure Code allows the detention of a person whose testimony as a material

witness is necessary in a criminal case, if that person is likely to abscond.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, Government action, constitutional amendments, legislation restricting judicial review, and other factors steadily have eroded judicial independence and strengthened executive influence over the judiciary. In recent years, a number of high-profile cases cast doubts on judicial impartiality and independence, and raised questions of arbitrary verdicts, selective prosecution, and preferential treatment of some litigants and lawyers. Members of the bar, NGO's, and other observers continued to express serious concern about these problems.

However, many observers believe judicial independence has improved since Tan Sri Mohamed Dzaiddin Abdullah was appointed Chief Justice in December 2000. Immediately following his appointment, Chief Justice Dzaiddin spoke publicly about the importance of restoring public trust in the judiciary and instituted a rotational case-assignment system to ensure the impartiality of judges hearing any given case. Dzaiddin also repeatedly has stressed that a judge's loyalty must be to the law rather than to outside factors such as politics. During the year, some high-profile cases were decided according to the legal merits of the case. However, some observers, including the Bar Council, expressed concern about a series of high-level judicial appointments during the year. Former Attorney General Mohtar Abdullah was appointed to the Federal Court and Ahmad Fairuz was appointed Chief Judge of the High Court of Malaya. It also was announced that Gani Patail, the former lead prosecutor during Anwar trials in 1998 and 1999, would succeed Anum Saaid as Attorney General. These observers commented that these developments appeared to indicate that executive encroachment on the judiciary could remain a serious concern.

High courts have original jurisdiction over all criminal cases involving serious crimes and most civil cases. Civil suits involving automobile accidents and landlord-tenant disputes are heard by sessions courts. Juvenile courts try offenders under age 18. The Special Court tries cases against the King and sultans. The Court of Appeal has appellate jurisdiction over high court and sessions court decisions. The Federal Court, the country's highest court, hears appeals of Court of Appeal decisions.

Islamic religious laws administered by state authorities through Islamic courts bind ethnic Malays and other Muslims in some matters. In 1997 the Government announced that it would harmonize Islamic law at the federal level and appoint an Islamic law federal attorney general. However, the Government has not been able to obtain the necessary agreement of all the states and the proposal has not been implemented, though it is still under discussion.

Indigenous peoples in Sarawak and Sabah also have a system of customary law to resolve matters such as land disputes between tribes.

Penghulu (village head) courts may adjudicate minor civil matters, but these rarely are used.

The military has a separate system of courts.

The secular legal system is based on English common law. Trials are public, although judges may order restrictions on press coverage. For example, in the corruption trial of former Deputy Prime Minister Anwar, the judge often restricted press coverage of defense testimony and remarks that might embarrass senior government leaders. However, the judge generally did not restrict press coverage of testimony and remarks that might embarrass Anwar.

Defendants have the right to counsel, bail is sometimes available, and strict rules of evidence apply in court. Witnesses are subject to cross-examination. The defense in both ordinary criminal cases and special security cases is not entitled to a statement of evidence before the trial. In general, limited pretrial discovery in criminal cases hobbles defendants' ability to defend themselves.

Defendants enjoy the presumption of innocence and may appeal court decisions to higher courts. In criminal cases, defendants also may appeal for clemency to the King or local state rulers as appropriate. A single judge hears each criminal trial. There are no jury trials.

A 1997 amendment to the Criminal Procedure Code that may erode defendants' presumption of innocence continued to concern lawyers. Before the 1997 amendment, the prosecution was required to prove its case

beyond a reasonable doubt or the defendant would receive a summary dismissal without having to present the defense case. The prosecution only needs to prove a legally sufficient unless disproved case, and the defense must be called. In August 1999, a man was convicted of murder after electing to enter a no defense. The judge ruled that the prosecution had proven a legally sufficient case and, when the man chose to offer no defense, the judge convicted him and sentenced him to death.

The Courts of Judicature Act was amended in 1998 to limit the rights of defendants to appeal in some circumstances. The Government stated that these amendments would expedite the hearing of cases in the upper courts. The president of the Bar Association stated that the amendments imposed too many restrictions on appeals.

The Attorney General may restrict the right to a fair trial in criminal cases by invoking the Essential (Security Cases) Regulations. These regulations governing trial procedure normally apply only in firearm cases. In cases tried under these regulations, the standards for accepting self-incriminating statements by defendants as evidence are less stringent than in normal criminal cases. Also, the authorities may hold the accused for an unspecified time before making formal charges. The Attorney General has the authority to invoke these regulations in other criminal cases if the Government determines that the crime involves national security considerations, but such cases are rare. However, the Essential Regulations were invoked in September 2000 at the beginning of the trial of 29 members of the Al-Ma'unah sect accused of carrying out arms thefts at two army posts in July 2000. Defense lawyers argued that the use of the Essential Regulations was unconstitutional, since no certificate of emergency declaring a national emergency had been issued. The judge ruled that the Attorney General has the discretion to opt to use the Essential Regulations, if he saw fit to do so (see Sections 1.d. and 2.c.).

Even when the Essential Regulations are not invoked, defendants and defense lawyers lack legal protections against interference. For example, during a trial police may call and interrogate witnesses who have given testimony not helpful to the prosecution. Human rights advocates accused police of using this tactic to intimidate witnesses. One instance of this practice led the Bar Council in July 1999 to issue a statement of concern. Police also have used raids and document seizures to harass defendants. Selective prosecution, that is, prosecution based on political rather than legal considerations, is a serious problem in the legal system. According to the law, the decision to prosecute a case rests solely with the Attorney General. In August 1999, the former Chief Justice publicly reminded magistrates and judges not to question the Attorney General's sole discretion to prosecute. Some NGO's have made credible accusations of political interference in the judicial process. However, the Chief Justice has made clear his opposition to the practices of the past and his intention to make the law, rather than political considerations, hold sway over the legal process, including decisions on whether or not to prosecute. Government officials, including the Minister in the Prime Minister's office responsible for legal affairs, have denied that the Attorney General practices selective prosecution.

Selective prosecution has been a problem in the past. In May 1999, the then-Attorney General warned that those accusing the Government of selective prosecution could be charged with sedition or criminal defamation. The Bar Council criticized the then-Attorney General's statement and stated that it showed "a lack of respect or understanding of the concept of democracy and the rule of law." No one was charged with sedition or criminal defamation on such grounds during the year.

Contempt of court charges also have restricted the ability of defendants and their attorneys to defend themselves. However, one case suggests that the use of contempt of court charges against defendants and their attorneys may be changing. For example, Attorney Zainur Zakaria was convicted in 1998 by the High Court for contempt of court after refusing to apologize for filing a brief on behalf of his client, Anwar Ibrahim. The Appeals Court upheld his conviction in 1999. However, in June the Federal Court overturned the conviction, and stated that the High Court Judge, in his initial handling of the case, appeared to be acting as an agent for the prosecution.

Following a number of high-profile corruption cases, the Government amended the AntiCorruption Act in 1997. The law gives the Attorney General powers that impinge on the presumption of innocence and requires accused persons to prove that they acquired their monetary and other assets legally.

Islamic courts do not give equal weight to the testimony of women. Many NGO's have complained that women do not receive fair treatment from Islamic courts, especially in matters of divorce.

In June the three remaining defamation suits against the U.N. Special Rapporteur on the Independence of Judges and Lawyers, Datuk Param Kumaraswamy, were dropped. Param originally faced four such suits. In August 2000, a judge agreed with an April 1999 International Court of Justice ruling that Param's U.N. status gave him immunity from the first suit. The suits stemmed from an article in which Param and former Malaysian Bar Council President Tommy Thomas argued that certain companies, law firms and individuals enjoyed

improper preferential treatment in the courts. Thomas was convicted in 1998 and sentenced to 6 months in prison. However, in April the Court of Appeal converted his jail sentence into a \$2,500 (RM 10,000) fine. Thomas paid his fine, and the case was closed.

The cases against former Deputy Prime Minister Anwar Ibrahim and some of his associates, and against Irene Fernandez (see Section 2.a.), raised serious questions about judicial independence and impartiality. Nonetheless, the Courts did not rule exclusively in favor of the Government. A Member of Parliament (M.P.) from the ruling coalition government was convicted in 2000 and fined more than \$2,600 (10,000 RM) on a contempt charge. However, in August the Appeals court set aside his conviction.

Former Deputy Prime Minister Anwar Ibrahim is a political prisoner because he was charged, tried, and convicted in a legal process that was politically motivated and patently unfair. In September 1998, after a political conflict, Prime Minister Mahathir Mohammad removed Anwar as Deputy Prime Minister. Later the same month, after a large and mostly peaceful demonstration in which he called for Mahathir's resignation, Anwar was detained for alleged corruption and sodomy. Many observers believe the government manufactured these charges and used them to remove Anwar, who appeared to be gaining popular support after he was fired, from the political scene. While in detention, Anwar was beaten by the former Inspector General of Police Rahim Noor (see Section 1.c.).

For several days, Anwar was denied medical treatment for the injuries that he received at the hands of Rahim. Presumably to avoid bringing a visibly injured Anwar to court, police changed Anwar's status to "detention without charge" under the Internal Security Act. Anwar's status subsequently was changed again to criminal detention.

During Anwar's corruption trial, the judge made several questionable rulings that greatly limited Anwar's ability to defend himself. For example, the judge sentenced one of Anwar's attorneys to 3 months' imprisonment for contempt after the attorney raised in court charges of prosecutorial misconduct. The judge greatly restricted the scope of Anwar's defense (on occasions during the trial, the judge explicitly said that he did not care if there was a conspiracy to bring down Anwar) and tolerated improper activities by the police and prosecutors. The judge allowed prosecutors to amend the charges in the middle of the trial, which is permitted under the law but in this case was unfair to Anwar. Anwar was denied the ability to rebut evidence of sexual misconduct presented by prosecution witnesses when the judge, at the end of the prosecution's case, allowed prosecutors to amend the charges, and then expunged the record of all evidence of sexual misconduct. Since his arrest, Anwar has been denied bail on questionable legal grounds.

At the beginning of the sodomy trial, prosecutors changed the dates of the alleged acts of sodomy, allegedly because the defense had discovered that the apartment building where the sodomy allegedly took place had not been completed by the original dates. Despite testimony detailing how police had coerced a confession from an alleged homosexual partner, in July 1999, the judge ruled that the prosecution had proven beyond a reasonable doubt that this confession had been voluntary. A few days later, another witness admitted that police had coached part of his testimony. In August 1999, the lead police investigator materially contradicted his testimony (in order to make it consistent with the amended dates of the alleged offense); the next day, the judge ruled that the policeman had not lied. In April 2000, the judge ruled that the Prime Minister, who was called by the defense in an attempt to prove a political conspiracy against Anwar, would not be required to testify. Defense attorneys maintained that they were not permitted by the judge to call a number of desired witnesses. The defense claimed that the judge exerted pressure to bring the trial to an early conclusion. In his written ruling, which was released in June, the judge said that the testimony of the chief prosecution witness--widely viewed as deeply flawed and lacking credibility--was as solid as the "Rock of Gibraltar."

In 1999 Anwar was convicted on four counts of corruption and sentenced to 6 years in prison. In April 2000, Anwar's appeal of the conviction and sentence was denied by the Court of Appeals. His appeal to Federal Court, the country's highest court, was postponed at the request of his lawyers while Anwar was in the hospital being treated for a slipped disk in his back. In August 2000, Anwar was convicted on a separate charge of sodomy and sentenced to 9 years in prison, to be served consecutively with the 6-year sentence that Anwar received for corruption. Anwar's lawyers requested that this conviction be reviewed by the Appeals Court. At year's end, the date for this appeal has not yet been set. On May 12, the High Court acquitted Anwar of the four remaining charges of sodomy and one charge of corruption that were pending against him after the prosecution withdrew the charges against the former Deputy Prime Minister. Most observers believe this was because the charges were without basis and would have resulted in further government embarrassment should they have been aired in open court. The Federal Court was scheduled to hear Anwar's appeal on the remaining corruption charges in November, but the appeal again was postponed, and no new date had been scheduled as of year's end.

Anwar will be disqualified from holding any public office for 5 years once he completes his 15-year sentence, unless he wins his appeals.

Anwar's conviction and sentence were criticized strongly by opposition parties, human rights groups, and a number of foreign governments and international human rights organizations. For example, the Malaysian Bar Council criticized the trial, citing irregularities in the evidence, and characterized the sentence as "manifestly excessive and harsh." After spending nearly 6 months in a hospital receiving treatment for a slipped disk in his back, Anwar was sent back to prison in May. Anwar remained in prison at year's end. He is permitted to receive visits from only his family and lawyers. According to the law, Anwar is a "common criminal" rather than a political prisoner, and therefore does not have the right to receive visits from international human rights organizations.

In a May public statement, the Human Rights Commission stated that there were no laws prohibiting Anwar from being sent abroad for the medical treatment of his choice. The Government has denied Anwar's request for medical treatment abroad.

Anwar Ibrahim is a political prisoner. In addition, the five individuals associated with the Anwar-based National Justice Party who were arrested in April and who remained in detention under the ISA at year's end, are political detainees.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law provides for these rights; however, authorities infringed on citizens' privacy rights in some cases. Provisions in the security legislation (see Section 1.d.) allow the police to enter and search without a warrant the homes of persons suspected of threatening national security. Police also may confiscate evidence under these acts. In some cases each year, police use this legal authority to search homes and offices, seize books and papers, monitor conversations, and take persons into custody without a warrant.

A clause in the Anticorruption Act empowers the Attorney General to authorize the interception of mail and the wiretapping of telephones. Observers have indicated that such information would be admissible as evidence in a corruption trial.

The law permits the Home Ministry to place criminal suspects under restricted residence in a remote district away from their homes for a 2-year period (see Section 1.d.).

The Government bans membership in unregistered political parties and in unregistered organizations (see Section 2.b.).

Certain religious issues pose significant obstacles to marriage between Muslims and adherents of other religions (see Section 2.c.).

Muslim couples must take premarital courses. In previous years, women's activists complained that the courses, as implemented, perpetuated gender discrimination by misinforming women of their rights in marriage (see Section 5). However, there were no reports during the year of such misinformation regarding marriage rights.

In previous years, two state governments sought to restrict Muslim women's dress; however, no state government acted further on this issue during the year.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, some important legal limitations exist, and the Government restricts freedom of expression and intimidates most of the print and electronic media into practicing self-censorship.

The Constitution provides that freedom of speech may be restricted by legislation "in the interest of security (or) public order." For example, the Sedition Act prohibits public comment on issues defined as sensitive, such as racial and religious matters. In practice the Sedition Act, the Official Secrets Act, criminal defamation laws, and some other laws have been used to restrict or intimidate dissenting political speech.

In 1999 the U.N. Special Rapporteur on Freedom of Opinion and Expression issued a report stating that freedom of opinion was curtailed systematically in the country. The Special Rapporteur stated that the Internal

Security Act, the Sedition Act, and the Printing Presses and Publications Act were used to suppress or repress expression and curb peaceful assembly. He further stated that defamation laws "appear to be having a very chilling effect." The Government stated that the Special Rapporteur's report was "baseless and distorted."

The Prime Minister and other senior officials continued to ascribe seditious or treasonous motives to critics of government policies, although many persons still criticized the Government publicly.

Throughout the year, Government officials warned that political parties that raised sensitive issues threatened national stability and would be charged under the Sedition Act. However, government and ruling party officials sometimes made statements on sensitive racial and religious issues with no repercussions. The Youth Chief of the National Justice Party (Keadilan), Ezam Noor, was charged with sedition in March for his alleged call for street demonstrations to topple the Government. Noor's trial was ongoing at year's end. Opposition politician Marina Yusoff, charged with sedition for comments she made about the 1969 racial violence while campaigning for Parliament in 1999, was fined 1,300 (5,000 RM) in March. The trial of opposition leader and prominent attorney Karpal Singh, charged with sedition for statements he made in court during his legal defense of Anwar Ibrahim, began in October and continued at year's end. Both Karpal and Marina were charged under the Sedition Act, which carries a maximum fine of just over 1,300 (5,000 RM), or 3 years' imprisonment, or both.

The Official Secrets Act (OSA) also restricts freedom of expression. In the past, the Bar Council and other NGO's have called for a review of certain provisions of the OSA that grant considerable discretion to the authorities. Opposition leaders historically have accused the Government of using the OSA to cover up corruption. In January 2000 Ezam Noor, previously a former Anwar aide and youth chief of the opposition National Justice Party, was charged under the OSA with disclosing to reporters secret AntiCorruption Agency (ACA) reports. Ezam stated publicly in August 1999 that Anwar had stored abroad documents that corroborated charges of corruption against senior government leaders. Ezam claimed that the reports showed that the ACA was not pursuing corruption cases against senior government officials. Ezam's case went to trial in August, but it was postponed and was ongoing at year's end. In March 2000 a government official stated in Parliament that only six persons have been arrested under the OSA since its inception in 1972, and he claimed that this statistic proved that the Government does not use the OSA to silence critics.

In January 2000, the editor and printer of Harakah, the newspaper of the opposition Islamic party, Parti Islam Se-Malaysia (PAS), were charged with sedition in connection with an 1999 Harakah article that quoted an opposition politician's comments on the confession of Sukma Darawaman, Anwar Ibrahim's codefendant in Anwar's sodomy trial. The printer pled guilty in May and was fined slightly over \$1,000 (4,000 RM). The editor's case still is pending.

In March 2000, the Melaka state government announced that it had terminated the contracts of an undetermined number of panel doctors, architects, and lawyers, and blacklisted contractors who allegedly were aligned with opposition parties. The state government also closed accounts in banks where the staff were accused of criticizing the Government. In July 2000, the Penang state government also blacklisted contractors for their alleged involvement in antigovernment activities, such as supporting or funding opposition parties. Opposition parties and NGO's criticized these actions as discriminatory, claiming that such steps were inconsistent with the demands of a democratic society.

During 2000 many government officials, opposition figures, and private citizens filed multimillion-dollar lawsuits for libel and slander. In May 1999, the Bar Council stated that the proliferation of multimillion-dollar libel and slander lawsuits "would end up stifling the freedom of speech." In July 2000, the Federal Court upheld a judgment of over \$250,000 (1 million RM) against a freelance journalist who had been sued for libel by a wealthy businessman in 1994. In an unprecedented move, during the year, the Federal Court (under the new Chief Justice) agreed to review this decision. The date of this review had not yet been set at year's end. The Minister in the Prime Minister's Department responsible for legal affairs told reporters in September 2000 that the Government would review the defamation law in response to public concern over libel awards which, he noted, frequently exceeded damages handed down in personal injury cases. At year's end, the Government continued to review the issue; however, no results were reported.

The English and Malay mainstream press provide generally laudatory, uncritical coverage of government officials and policies, and usually give only limited and selective coverage to political views of the opposition or political rivals. Editorial opinion almost always reflects government positions on domestic and international issues. Chinese-language newspapers generally have been freer in reporting and commenting on sensitive political and social issues, but they are not immune to government pressure. There was widespread concern that the purchase in May of two major Chinese-language dailies by the investment arm of the ruling coalition's most influential Chinese party would restrict this freedom and transform the newspapers into publishers of progovernment propaganda. These concerns were magnified when the top management of one of the dailies was removed immediately following the takeover. During the year, several newspaper vendors have been the

target of official raids for selling opposition party newspapers. However, self-censorship and biased reporting in the print media was not uniform and the English-, Malay-, and Chinese-language press all, at times, provided balanced reporting on sensitive issues. Chinese-language newspapers generally have been freer to report and comment on sensitive political and social issues.

The Printing Presses and Publications Act limits press freedom. Under the act, domestic and foreign publications must apply annually to the Government for a permit. The act was amended to make the publication of "malicious news" a punishable offense, to expand the Government's power to ban or restrict publications, and to prohibit court challenges to suspension or revocation of publication permits. Government power over license renewal and other policies creates an atmosphere that inhibits independent or investigative journalism and results in extensive self-censorship. In April 2000, the Deputy Home Minister stated in Parliament that from 1996 through March 2000, action had been taken under the Act against 164 publishers. Government officials continue to argue that the act has helped preserve harmony and promote peaceful coexistence in a multiracial country. In August 2000, the Minister in the Prime Minister's Department responsible for legal affairs stated that the act would not be repealed, even if a national press council were established to regulate the media. In August the Deputy Home Minister stated that his Ministry approved 2,141 publishing permits and 1,194 printing press licenses during the year and that this showed that the Government had a liberal approach to such permits.

The Government often conveyed its displeasure with press reporting directly to a newspaper's board of directors or chief editors. In addition, leading political figures in the ruling coalition, or companies controlled by them, own most major newspapers, thus limiting the range of views. At times the susceptibility of the press to government pressure has a direct and public impact on operations. For example, in January 2000 the group editor in chief of a local press conglomerate was removed after its flagship newspaper, the New Straits Times, carried several articles that reportedly angered the UMNO Supreme Council. However, this individual was appointed in September as chairman of Bernama, the national news agency.

On World Press Freedom Day in May, a series of speakers called for the repeal or revision of restrictive press laws, including the Printing Press and Publications Act, the Sedition Act, the Official Secrets Act, and the Internal Security Act, which make it difficult for journalists to obtain the information they need and to report objectively. There was little government response to the Press Freedom Day events, although the Prime Minister reaffirmed his intention to strengthen the press laws.

The Government continued to prosecute human rights activist Irene Fernandez under the Printing Presses and Publications Act for charges that she made in 1995 of mistreatment of detainees at illegal alien detention centers. Fernandez's supporters accuse the Government of purposely prolonging the trial, the longest in the country's history, to harass Fernandez. At year's end, the trial continued (see Section 1.e.).

The Government also sometimes directly restricts the dissemination of information that it deems embarrassing or prejudicial to national interests. The Government continued its policy of not allowing public disclosure of air pollution index-readings. In February 1999, the Government forbade all state health departments from commenting on the outbreak of a deadly virus. The Government later restricted reporters' access to sites of the outbreak. However, the issue was reported widely.

Publications of opposition parties, social action groups, unions, and other private groups actively covered opposition parties and frequently printed views critical of government policies. However, the Government retained significant influence over these publications by requiring the annual renewal of publishing permits and limiting circulation only to members of the relevant organization. Several times in 1999, senior government leaders publicly warned the publishers of Harakah, the Islamic opposition party's newspaper, not to print "slandorous" remarks and to limit distribution to party members (as the law requires). Harakah also has been the target of several ruling party-sponsored libel suits. In December 1999, the Home Ministry issued a letter to Harakah's publisher asking him to explain why Harakah should not be banned for violating the terms of the publishing permit. Harakah stated that it would abide by the Home Ministry directive and the newspaper generally no longer is sold openly. The circulation of Harakah rivals that of mainstream newspapers. Harakah was the only major Malay and English language media forum for opposition views. In March 2000, the Government stipulated that Harakah publish only twice a month instead of twice a week. Several other opposition newsletters are published and distributed without government permission.

For most of the year, there were two exclusively on-line newspapers, although another one that was forced to shut down in December 2000 due to financial difficulties was reestablished in June under a different name. Most major newspapers have an online edition. Exclusively online newspapers do not require publication permits; however, the Government denies their reporters press accreditation to cover government functions and ministers' press conferences, and refuses their admission into government buildings. The Government engaged in a sometimes intimidating campaign to discredit the independent Internet daily, malaysiakini.com, winner of an International Press Institute 2001 Press Freedom Award. According to Human Rights Watch, on

February 11, an Information Ministry official stated that malaysiakini.com would be barred from covering government press conferences "because their credibility is doubtful." However, this policy was not systematically implemented. HRW also reported on May 23, the Deputy Home Affairs Minister told Parliament that the Government was monitoring "every article" published by malaysiakini.com to ensure that its writings did not upset public order. However, readership of on-line newspapers continued to increase.

Printers, who also must have their permits renewed annually, often were reluctant to print publications that were critical of the Government.

Both legal magazines (those with publishing permits) and illegal publications (those lacking publishing permits) frequently printed criticism of the Government. In November, police raided a printing company and seized several thousand pamphlets that criticized the Selangor state chief minister.

During the year, the foreign press continued to be a target and the Government interfered with the release and distribution of several foreign magazines, including the Far Eastern Economic Review and Asiaweek. Throughout the year, Asiaweek in particular was routinely subject to delays of up to 4 weeks before receiving government permission to distribute its weekly issues. Government officials, including the Prime Minister, continued to accuse the foreign media of harboring ill intentions toward the country and of deliberately misrepresenting the country's political and economic environment by focusing on negative news.

The electronic media is restricted more tightly than the print media. Radio and television almost uniformly are laudatory of the Government. News on the opposition is restricted tightly and reported in a biased fashion. In July 1999, the Deputy Information Minister stated candidly that government television and radio channels would not broadcast the views of opposition parties. He stated that opposition parties were welcome to use private news stations or apply for broadcasting licenses of their own. In fact, the two private television stations have close ties to the ruling coalition and are unlikely to provide a forum for the opposition parties; and it also is unlikely that the Government would grant the opposition a broadcasting license. In April 2000, the Deputy Information Minister stated that the opposition would be allowed access to government media only if the opposition had "anything specific or good to say." The Government has not approved a longstanding license application for a state radio station in the opposition-controlled state of Kelantan.

A government censorship board censors films for profanity, nudity, sex, violence, and certain political and religious content. Television stations censor programming in line with government guidelines. The Government bans certain books for political and religious reasons or because of sexual or profane content. Some foreign newspapers and magazines are banned and, infrequently, foreign magazines or newspapers are censored, most often for sexual content. However, the increased prevalence of the Internet is undermining such restrictions. The Government maintains a "blacklist" of local and foreign performers, politicians, and religious leaders who may not appear on television or radio broadcasts. In August the Government announced that it would increase efforts to block the production, distribution, and sales of video compact discs (VCDs), especially those with pornographic and political content.

The Communications and Multimedia Act (CMA), which came into force in April 1999, requires certain Internet and other network service providers to obtain a license. In December 2000, the Government stated that it did not intend to impose controls on Internet use, but noted that it would punish the "misuse" of information technology under the CMA, which, while prohibiting censorship, provides for "legal action" against those who post defamatory and false information on the Internet. The Government has not used licensing provisions under the CMA to interfere with Internet access or to restrict Internet content.

Government officials continued to make contradictory comments about the desirability of censoring the Internet. In 2000 the Deputy Home Affairs Minister announced that his Ministry was drafting a new law that would allow legal action to be taken against those believed to be responsible for spreading "misleading information" and pornography via the Internet. However, the Information Minister stated that the Government had no plans to censor the Internet. The Minister in the Prime Minister's Department responsible for legal affairs stated in September 2000 that, while the Internet would not be censored, users remained subject to the law, and anyone who defamed another over the Internet or made seditious comments still could face legal action. However, during the year he mentioned the need for a law specifically designed for Internet commerce and communication.

The Government generally restricts remarks or publications that might incite racial or religious disharmony; it also attempts to restrict the content of sermons at government-affiliated mosques. Some state governments ban certain Muslim clergymen from delivering sermons (see Section 2.c.). In December 1999, Prime Minister Mahathir stated that the Government should find ways to prevent the opposition from "spreading lies" at mosques. That same month, Deputy Prime Minister Abdullah instructed the Religious Affairs Department to conduct background checks on religious speakers. Throughout the year, government officials and ruling

coalition politicians complained that opposition Islamic party members were giving political sermons in mosques around the country.

In May 2000, members of the opposition Islamic party were banned by the Selangor state government from giving speeches in all mosques, government buildings, and prayer places in the state.

In July the Government ceased issuing permits for political gatherings (see Section 2.b.). This significantly limited the ability of opposition parties, particularly the Islamic party, to communicate with their supporters and to raise funds for their activities. Nonetheless, some opposition rallies continued to be held. In July the Government began to crack down on the distribution and sale of the opposition party's VCD's and audiocassettes.

The Government places some restrictions on academic freedom, particularly regarding the expression of unapproved political views, and the Government forced restrictions on teachers and students who expressed dissenting views. Academics sometimes are publicly critical of the Government. However, there is self-censorship among public university academics whose career advancement and funding depend on the Government. In August a secondary school teacher in the state of Terengganu was charged with sedition for asking his students to answer a test question regarding the erosion of judicial independence in Malaysia.

Throughout the year, senior government officials stated that teachers who opposed the Government and students who took part in antigovernment activities would face disciplinary actions, including dismissal and expulsion. In October, the Education Minister announced that 61 university lecturers had been dismissed, transferred or issued warnings for alleged "anti-government" activities. Throughout the year, several university students were expelled or suspended for engaging in activities associated with the political opposition. Private institution academics practiced self-censorship as well, due to fear that the Government might revoke licenses for their institutions. The law also imposes limitations on student associations and student and faculty political activity (see Section 2.b.). A university vice chancellor must approve campus demonstrations.

Also in July, the Government detained two students at the University of Malaya and the Mara Technical Institute under the ISA for engaging in opposition political activities, including demonstrating against the ISA. The two were released before the initial 60-day period had elapsed. The Government claimed that student participation in opposition politics threatened national security, and argued that individuals fortunate enough to be enrolled in the university should focus exclusively on their studies. Opposition leaders stated that the crackdown on political expression on campus would stifle students' intellectual development.

The Government has long stated that students should be apolitical and has used that assertion as a basis for denying opposition parties access to student forums. According to student leaders, students who sign antigovernment petitions sometimes are expelled or fined. The Government enforces this policy selectively; however, it does not refrain from spreading government views on political issues among students and teachers.

In February 1999, the University of Malaya declined to renew the contract of Professor Chandra Muzaffar. Chandra, a well-known supporter of political reform and a longtime government critic, charged that the University had fired him for political reasons. The university stated that it had declined to renew Chandra's contract for economic and personnel reasons. In June 1999, the High Court agreed to hear Chandra's application to reverse the university's decision. His case was pending at year's end.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly; however, the Government places significant restrictions on this right. This right may be limited in the interest of security and public order, and the Police Act requires police permits for all public assemblies except for workers on picket lines. The decision to grant a permit theoretically rests with the district police chief; however, in practice senior police officials and political leaders influence the grant or denial of some permits. Police grant permits routinely to government and ruling coalition supporters; however, they use a more restrictive policy with government critics, although the police have granted permits for many opposition meetings. In July the Government ceased issuing permits for all political meetings (ceramah) throughout the country. This was perceived widely as an effort to target the activities of the political opposition, although some opposition rallies continued to be held.

Even before the July ban on political meetings, opposition leaders frequently alleged that police issue permits for public assemblies in an unfair manner that discriminates against the opposition. Various state and local police departments rebutted these allegations by providing statistics that indicated that most requests for permits are granted; however, in certain sensitive cases political considerations led to the denial of permits.

Police reaction to opposition rallies that ignored the requirement for a permit or were held after the Government denied a permit varied. In some instances, persons were told to disband immediately or face police action. In other instances, persons were given time to conduct their activities and were not threatened with police action. Opposition politicians note that ruling coalition parties frequently assemble without the requisite permits.

In a series of pro-Anwar opposition demonstrations held since 1999, police have arrested hundreds of demonstrators, including many peaceful demonstrators. Many of these demonstrators later were acquitted, but a handful were convicted, with sentences ranging from 1 to 3 months in addition to a fine. Among those arrested were many opposition party leaders. Police detained them under the Police Act allegedly for participating in an illegal assembly and under the Penal Code allegedly for causing a riot.

In February police broke up an opposition event in the state of Kedah with water cannons that used chemically-laced water. This was one of the first instances in which riot police were called to break up a political gathering outside of Kuala Lumpur. In April the police mounted an operation to prevent citizens from participating in a Kuala Lumpur demonstration called by the opposition to commemorate the 2-year anniversary of Anwar Ibrahim's 1999 conviction on corruption charges. Police set up roadblocks and monitored bus stations, train stations, and airports to turn back suspected opposition supporters. In the days prior to the event, police also detained seven opposition activists under the ISA, and claimed that they were planning a massive, violent demonstration to overthrow the Government. Three others were detained in the days after the demonstration. Those detained included Keadilan leaders Ezam Noor, Tian Chua, N. Gobalakrishnan, and Free Anwar Campaign Director Raja Petra. Despite these efforts, a crowd of more than 1,000 persons gathered on April 15 in Kuala Lumpur at the steps of building which houses the National Human Rights Commission. After leaders of the political opposition presented a petition to several Commissioners protesting the treatment of Anwar and the use of the ISA to curb dissent, the crowd dispersed peacefully. While hundreds of riot police surrounded the area, there was no violence and there were no arrests reported during the event.

In February 1999, the U.N. Special Rapporteur on Freedom of Opinion criticized the Government's use of various laws to curb peaceful assembly (see Section 2.a.).

In April the Human Rights Commission issued its first report on the human rights situation in the country, and made a series of recommendations to improve the country's observance of human rights. Loosening restrictions on freedom of assembly was one of the Commission's principal recommendations. The report noted the need to approve applications for peaceful assemblies as a general rule; to identify specific public spaces for these assemblies; to simplify application procedures; and to have law enforcement maintain a discreet presence during peaceful assemblies. In August the Human Rights Commission released a separate report specifically addressing freedom of assembly. Highlighting the fact that the right of assembly is enshrined in the Constitution, the report recommended easing police permits for gatherings, setting up a special "speaker's corner," and reviewing laws that restrict the right to free assembly. The Government responded by calling the report "biased and idealistic" and influenced by "western liberal thinking."

The Constitution provides for the right of association; however, the Government places significant restrictions on this right and certain statutes limited this right. Under the Societies Act, only registered, approved organizations of seven or more persons may function as societies. The Government sometimes refuses to register organizations or may impose conditions when allowing a society to register. For example, the Government did not allow Amnesty International to set up a branch as an NGO. However, AI incorporated itself as a business, and it was able to function much like an NGO. The Government prohibits the Communist Party and affiliated organizations (see Section 1.f.). The Government also has the power to revoke the registration of an existing society for violations of the act, a power that it has enforced selectively against political opposition groups. In July government officials stated that the Government would prosecute or deregister societies that do not accurately declare whether they receive foreign funds. This threat of possible deregistration inhibits political activism.

To avoid the burdensome requirements of the Societies Act, many NGO's register as companies under the Companies Act or as businesses under the Registration of Businesses Act. In July, Parliament amended the Registration of Businesses Act to enable the Registrar to revoke or refuse the registration of organizations deemed to be engaging in unlawful activities or for purposes that are incompatible with national security. Some human rights activists claimed that this could be used to restrict NGO's that are critical of the Government. Amendments to the Companies Act passed in 1998 empowered the Registrar of Companies to refuse registration of a proposed company if he is satisfied that the company is likely to be used for any purpose prejudicial to national security or the public interest. The Registrar also may cancel the registration of an existing company and disband it on the same grounds. Opposition parties and NGO activists claim that the sweeping powers granted to the Registrar of Companies were designed to stifle criticism. The Government denied such charges and stated that financial irregularities were the amendments' main target. However, later police statements alluded to the status of certain NGO's under the Companies or Societies Acts, which some

perceived as a threat. In 1999 the Deputy Home Minister notified Parliament that the Government had revoked the registration of 981 societies under the Societies Act since 1966. No human rights NGO has had its registration revoked in recent years.

In August 2000 the High Court heard an appeal from the Socialist Party of Malaysia, whose application to form a new political party had been rejected in February 1999 by the Registrar of Societies. The Registrar stated that information on the application form was incomplete. Supporters of the Socialist Party claimed that the denial was politically motivated and filed an appeal. The case still was pending at year's end.

The Bar Council continues to be the target of government criticism in some instances; however, Government-Bar relations improved during the year.

In February the Minister in the Prime Minister's Department overseeing legal affairs, Rais Yatim, spoke at a Bar Council seminar on the importance of making the law work for citizens. In the past, the Government has threatened to expand legally the membership of the Bar Council to include government lawyers and legal professors. Some members of the Council feared that such a measure would dilute the Council's independence. No such measures had been implemented by year's end. The Council also expressed reservations about a government proposal to establish an Academy of Law, but the Chief Justice supported the idea as a good way to strengthen communication among different players within the legal system.

The Universities and University Colleges Act also restricted freedom of association. This act mandates university approval for student associations and prohibits student associations, as well as faculty members, from engaging in political activity. During the year, several students were suspended from universities for political activities (see Section 2.a.). Restrictions are not enforced as vigorously on students who participate in political activities in support of the ruling coalition. A university vice chancellor must approve campus demonstrations. Many students, NGO's, and opposition political parties called for the repeal or amendment of the act. A number of ruling coalition organizations and politicians also supported reexamination of the act, but the Government stated that the act still is necessary.

c. Freedom of Religion

The Constitution provides for freedom of religion; however, the Government places some restrictions on this right. Islam is the official religion; however, the practice of Islamic beliefs other than Sunni Islam is restricted significantly. Religious minorities, which include large Buddhist, Christian, Hindu, and Sikh communities, generally worship freely, although with some restrictions. Government funds support an Islamic religious establishment, and it is official policy to "infuse Islamic values" into the administration of the country. The Government imposes Islamic religious law (Shari'a) on Muslims only in some matters and it does not impose Shari'a beyond the Muslim community. Adherence to Islam is considered intrinsic to Malay ethnic identity and therefore Islamic religious laws administered by state authorities through Islamic courts bind all ethnic Malays (and other Muslims) in some matters. The Government also grants funds to non-Islamic religions, but to a more limited degree.

The Registrar of Societies, under the Ministry of Home Affairs, registers religious organizations. Registration enables organizations to receive government grants and other benefits. In May, the Government decided not to approve the Falun Gong Preparatory Committee's application to register as a legal organization.

For Muslims, particularly ethnic Malays, the right to leave the Islamic faith and adhere to another religion is controversial. The legal process of conversion is unclear; in law and in practice, it is very difficult for Muslims to change religions. In March 1999, the country's highest court ruled that secular courts have no jurisdiction to hear applications by Muslims to change religions. According to the ruling, the religious conversion of Muslims is solely within the jurisdiction of Shari'a courts. In April, a High Court judge rejected the application of a Malay woman who argued that she had converted to Christianity, and requested that the term "Islam" be removed from her identity card. The judge ruled that an ethnic Malay is defined by the federal Constitution as a "person who professes the religion of Islam." The judge also reaffirmed the March 1999 High court ruling and stated that only an Islamic court has jurisdiction to rule on the woman's supposed renunciation of Islam and conversion to Christianity. The ruling makes conversion of Muslims nearly impossible in practice.

In 2000 the state of Perlis enacted a law that stipulated that Muslims found guilty of apostasy by a Shari'a court are to be sent to "faith rehabilitation centers." At year's end, there had been no convictions under this law. Such a bill also has been proposed at the highest level of the Government. Leaders of the opposition Islamic Party have said that the penalty for apostasy should be death.

The Government generally respects non-Muslims' right of worship; however, state governments carefully

control the building of non-Muslim places of worship and the allocation of land for non-Muslim cemeteries. Approvals for such permits sometimes were granted very slowly. In 1999 the Malaysian Consultative Council of Buddhism, Christianity, Hinduism, and Sikhism (MCCBCHS) protested the planned implementation of Ministry of Housing and local government guidelines governing non-Muslim places of worship. The MCCBCHS specifically complained that the guidelines required an area to have at least 2,000 to 5,000 adherents of a particular non-Muslim faith for a non-Muslim place of worship to be approved. No such requirement exists for Muslim places of worship. In August 2000, these minimum guidelines were relaxed somewhat. The group also argued that, under the guidelines, the state Islamic council must approve the establishment of all non-Muslim places of worship. In addition, after years of complaints by non-Islamic religious organizations about the need for Islamic authorities in each state to approve construction of non-Islamic religious institutions, the Minister of Housing and Local Government announced that such approval no longer would be required. However, it is unclear whether this change generally is reflected in state policies and local decisions. For example, in Shah Alam, the Selangor state authorities have continued to block the construction of a Catholic Church.

During the controversy over the proposed new guidelines on non-Muslim places of worship, the MCCBCHS and the Federal Territory Counseling and Service Center separately urged the Prime Minister to create a national "inter-religious" council, although no such council had been created by year's end.

The proselytizing of Muslims by members of other religions is prohibited strictly; persons proselytizing non-Muslims face no obstacles. The Government discouraged, and in practical terms forbade, the circulation in the peninsular region of the country of Malay-language translations of the Bible and distribution of Christian tapes and printed materials in Malay. However, Malay-language Christian materials can be found. Some states have laws that prohibit the use of Malay-language religious terms by Christians, but the authorities do not always enforce them actively. The distribution of Malay-language Christian materials faced few restrictions in east Malaysia. Most visas for foreign Christian clergy are approved. Beginning in March 2000, non-Muslim representatives sit on the immigration committee that approves such visa requests.

The Government opposes what it considers to be deviant interpretations of Islam, maintaining that the "deviant" groups' extreme views endanger national security. In the past, the Government imposed restrictions on certain Islamic groups, primarily the small number of Shi'a. The Government continues to monitor the activities of the Shi'a minority, including those of 55 religious groups believed to be involved in deviant Islamic teachings. In November 2000, the Shari'a high court in the state of Kelantan sentenced four persons to 3 years in jail for disregarding a lower court order to "recant" their allegedly heretical Islamic beliefs and "return to the true teachings of Islam." The High Court rejected their argument that Shari'a law had no jurisdiction over them because they had ceased to be Muslims.

The Government periodically detains members of what it considers Islamic deviant sects without trial or charge under the ISA. After release, such detainees are subject to restrictions on their movement and residence. For example, in July 2000, the Government detained under the ISA at least 33 members of the Al-Ma'unah sect who reportedly were not suspected of involvement in early July arms thefts. Fifteen remained under ISA detention at year's end (see Sections 1.d. and 1.e.).

The Government generally restricts remarks or publications that might incite racial or religious disharmony. This includes some statements and publications critical of particular religions, especially Islam. The Government also restricts the content of sermons at mosques. The Government periodically warns against those who deliver sermons in mosques for "political ends" and, occasionally, state governments banned certain Muslim clergymen from delivering sermons at mosques (see Section 2.a.).

After the 1999 national elections, the Government significantly expanded efforts to restrict the activities of the Islamic opposition party at mosques. The Government justified such measures as necessary to oppose the "politicization of religion" by the opposition. In October 2000, the Chief Minister of Kelantan, who is also the spiritual adviser for the opposition Islamic party PAS, was banned from speaking at a mosque in Selangor. The Chief Minister spoke despite the ban and vowed that he would continue to speak wherever he was invited. He was warned of prosecution if he defied the ban again. The mosque officers who allegedly allowed him to speak were not prosecuted, but they were required to attend a counseling session.

For Muslim children, religious education according to a government-approved curriculum is compulsory. There are no restrictions on home instruction.

In June 2000, the Government announced that all Muslim civil servants must attend religious classes, but only classes in Islam would be held. In addition only teachers approved by the Government would be employed to conduct these classes. During the year, the Government implemented this rule on civil servants.

In family and religious matters, all Muslims are subject to Shari'a law. According to some women's rights

activists, women are subject to discriminatory interpretations of Shari'a law and inconsistent application of the law from state to state.

The Government has a comprehensive system of preferences for ethnic Malays and members of a few other groups known collectively as "bumiputras," most of whom are Muslim (see Section 5).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Citizens generally have the right to travel, live, and work where they please; however, the Government restricts these rights in some circumstances. The East Malaysian states of Sabah and Sarawak have the right to control immigration and to require citizens from peninsular Malaysia and foreigners to present passports or national identity cards for entry. In 1998 the Court of Appeal ruled that Sabah and Sarawak, despite their autonomy, still are bound by the federal Constitution in all matters. Thus, the court voided Sabah's expulsion of an attorney from peninsular Malaysia who had been involved in several lawsuits against the state government. In May 1999, the Sabah state government filed an appeal of the ruling, which still is pending. In May the Government reportedly prohibited 78 citizens from traveling abroad claiming that they had "tarnished the country's image while abroad." Deputy Home Minister Datuk Zainal Abidin Zin told Parliament that the individuals in question had been "blacklisted" and would not be issued passports. In January a well-known ethnic Chinese education activist was deported from Sarawak and prohibited from returning. The Government regulates the internal movement of provisionally released ISA detainees (see Section 1.d.). The Government also uses the Restricted Residence Act to limit movements of those suspected of some criminal activities (see Section 1.d.).

Citizens must apply for the Government's permission to travel to Israel. Travel to Jerusalem for a religious purpose is allowed explicitly.

The Government has not ratified the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol, and the Government rejected customary international law in this area. The Government does not recognize the principle of first asylum; however, it sometimes grants temporary refuge to asylum seekers. In February Foreign Minister Datuk Seri Syed Hamid Albar stated that Indonesian refugees fleeing violence in Kalimantan would be prevented from entering the country. The Government continues to refuse to acknowledge that any Indonesian illegal aliens, including Acehnese, have a claim to refugee status. However, the Government has not made a concerted attempt to find and detain illegal Acehnese or other Indonesians. In 1998 the Government forcibly returned several hundred Acehnese, despite representations from the UNHCR and the international community and evidence that the Acehnese might face human rights abuses upon return to Indonesia.

In past years there were reports of deaths, poor conditions and serious abuse of inmates at the camps for illegal Burmese Rohingyas (see Section 1.c.).

The Government did not restrict the access of undetained asylum seekers to the UNHCR office and cooperated in the resettlement of some refugees. However, the Government only infrequently granted the UNHCR and other humanitarian organizations access to detained aliens. There were some forced expulsions of asylum seekers and refugees during the year.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

By law citizens have the right to change their government through periodic elections; however, while votes generally are recorded accurately, there are some irregularities that affect the fairness of elections, and in practice opposition parties are unable to compete on equal terms with the governing coalition (which has held power at the national level since 1957) because of significant restrictions on campaigning, freedom of assembly, freedom of association, and access to the media. Nevertheless, opposition candidates campaign actively, with some success in state and national elections. In the November 1999 elections, the opposition more than doubled the number of its seats in the national parliament from 20 to 45, out of a total of 193. In December 2000, the opposition won a seat in the Kedah state assembly in a tightly contested by-election. A number of opposition parties contested the state elections in Sarawak in September.

Malaysia has a parliamentary system of government. National elections are required at least every 5 years and have been held regularly since independence in 1957. The Malay-based United Malay National Organization party dominates the ruling National Front coalition, which has ruled the country continuously since independence. Since 1969 the National Front coalition always has maintained at least a two-thirds majority in Parliament, which enabled the Government to amend the Constitution at will. Over the years, power increasingly has been concentrated in the executive branch, and in the Prime Minister.

The lack of equal access to the media was the most serious problem encountered by the opposition in the November 1999 elections (see Section 2.a.). Government officials frankly stated that government television and radio would not carry reporting on the opposition. The country's two private television stations also had virtually no impartial reporting on the opposition. The mainstream English-language and Malay-language newspapers carried biased coverage of domestic politics as well. In addition opposition parties encountered difficulties in placing paid advertisements in newspapers; however, a few opposition advertisements did appear, after editing by the newspapers, in English- and Chinese- language newspapers.

Opposition leaders credibly claimed that the Election Commission, which is responsible for holding and monitoring elections, did not carry out its duties impartially. The Election Commission is nominally independent, but is perceived to be under the control of the Government. In June 1999, Deputy Prime Minister and Home Minister Datuk Seri Abdullah Badawi stated that there was no need to consult the opposition on the appointment of a new Election Commission chairman. Opposition leaders stated that Prime Minister Mahathir's remark that same month that the Government would "not entertain" an opposition demand for a long campaign period in upcoming elections demonstrated the lack of independence of the Election Commission (the Commission has the sole power to set the length of the campaign period). After the 1999 elections, several government officials publicly disputed opposition claims that the Election Commission was biased. Some members of the ruling coalition charged that individual Commission officials supported opposition candidates.

Opposition complaints of irregularities by election officials and allegations of other election fraud during the 1999 campaign were not substantiated during the year, and according to most observers, there was no evidence that the conduct of election officers significantly affected the results of the 1999 elections. Opposition leaders complained that local government officials who served as election officers were not always neutral. The Election Commission later announced that it completed its investigation into these complaints, but it did not reveal its findings. The Government did not permit international monitoring or adequately allow for domestic NGO monitoring efforts during the elections. (The last time that foreign observers monitored elections was in 1990).

Opposition parties and some NGO's also alleged that defective voting rolls led to some fraudulent votes. In the Sabah state elections in March 1999, opposition leaders accused the ruling coalition of employing "phantom" voters (illegal aliens and other fraudulently documented voters). In June a High Court judge in Sabah ruled that the 1999 election of BN candidate Yong Teck Lee to the state assembly seat in Likas was null and void due to the presence of phantom voters on the electoral rolls. However, in the by-election that followed, Yong won by a margin wider than that of his 1999 victory. Opposition representatives charged that the Government did nothing to clean the electoral rolls of phantom voters following the judge's ruling and before the by-election was held. Analysis by NGO's of the voting roll used in the national elections also revealed irregularities, such as deceased persons on the rolls, multiple voters registered under single identity card numbers, and other anomalies; however, according to most observers, there is no evidence that these irregularities significantly affected the results in more than a handful of races. The Government did not respond to post-election calls by an election-monitoring NGO for a national re-registration exercise to produce a clean electoral roll.

Postal votes (absentee ballots) by police and military personnel and their spouses also are a concern. The Government, citing security concerns, does not allow party agents to monitor postal vote boxes placed on military and police installations. Opposition parties questioned the rationale for such security restrictions. Opposition parties and NGO's have raised credible allegations of improper manipulation of postal votes, including statements by former military personnel that their ballots were filled out by others or under the eye of commanding officers. For the November 1999 elections, the Election Commission changed some procedures to allow better monitoring by Election Commission officers. Opposition parties continued to call for monitoring of absentee votes by party agents.

The anonymity of balloting also is a potential concern. Ballots are marked with a serial number that could be matched against a voter's name. While there is no evidence that the Government ever has traced individual votes, some opposition leaders have alleged that the potential to do so has a chilling effect on some voters, particularly civil servants.

Gerrymandering diluted the votes of some citizens. The Constitution states that parliamentary constituencies should have roughly equal numbers of eligible voters, although the same section states that greater weight should be given to rural constituencies. In practice these guidelines often are ignored. For example, in Sabah constituencies are weighted strongly against the state's large Christian population. Nationwide, the constitutional provision giving greater weight to rural constituencies greatly dilutes the voting power of urban residents. The single member, winner-take-all system also diminishes the political power of the minority groups. Because of the changing dynamics of ethnic politics, ethnic gerrymandering of parliamentary constituencies, used against the opposition in the past, is believed to no longer be as great an advantage to the ruling coalition.

Other government measures hamper the opposition's ability to compete with the incumbent ruling coalition. For example, the Government on several occasions issued public warnings to civil servants, including teachers (see Section 2.a.) not to support the opposition. Students face certain restrictions on political activity (see Sections 2.a. and 2.b.). Government leaders routinely and openly threatened to suspend the allocation of federal funds beyond the constitutionally mandated minimum to constituencies that elected opposition representatives. Ruling coalition Members of Parliament received a government allocation totaling in aggregate roughly \$25 million (95 million RM). Opposition Members of Parliament receive no such funds. In July 1999, a government minister told Parliament that the money only was given to ruling coalition Members of Parliament because it came from the Government.

The opposition has complained in the past about restrictions on public assemblies during the campaign period (see Section 2.b.). However, in the period prior to the November 1999 elections, police did not implement restrictions vigorously, and the opposition held many large rallies. The opposition also has stated that the short official campaign period gives an advantage to the incumbent ruling coalition. However, de facto campaigning began long before the elections, and there is little evidence that the short official campaign period had much practical effect. In defending its July ban on all political meetings, the Government noted that there was no need for the opposition to continue campaigning in a nonelection year.

In June the Minister in the Prime Minister's office responsible for justice said his Ministry was preparing an amendment to the Election Offences Act to require all those interested in contesting elections to sign an oath pledging not to raise sensitive issues such as religion or race in election campaigns.

In 1999, a group of NGO's formed an independent election watch organization. The Election Commission stated that the NGO's were free to do so, but the organization was accorded no special privileges. The Government continued to publicly reject the idea of foreign observers.

Under the electoral law, unsuccessful candidates may appeal election results to special election courts in instances of alleged fraud, vote tampering, or other infractions of electoral rules. However, in July the Government proposed tabling an amendment to the electoral law that would prevent judicial scrutiny of formalized election results. After the November 1999 elections, 21 petitions were filed by losing candidates from both the ruling and opposition coalitions. According to the Elections Commission, all petitions were dismissed. In March 2000, the High Court ruled that the Election Commission and returning officers may not be named as "necessary parties" in petitions filed with election courts by unsuccessful candidates.

In the past, within the ruling UMNO party, there was active political debate. "No-contest" rules for leadership positions and generally increased intolerance of dissent limited but did not eliminate UMNO's role as a vehicle for public debate. However, after the removal of Deputy Prime Minister Anwar in 1998, intolerance of dissent within UMNO increased, and an extraordinary UMNO Assembly in 1998 approved a series of measures designed to limit independent grassroots initiatives. There were no contests for the top two leadership positions in UMNO in 2000 and no party Supreme Council elections during the year. At the UMNO General Assembly in May 2000, 3 vice president slots and 25 elected seats on the Supreme Council were contested vigorously, with a number of candidates known not to be favored by party leaders; however, it had been announced before the General Assembly that there would be no contest for the party president and deputy president, positions held respectively by Prime Minister Mahathir and Deputy Prime Minister Abdullah.

Over the years, Parliament's function as a deliberative body has deteriorated. Legislation proposed by the Government rarely is amended or rejected. Legislation proposed by the opposition never is given serious consideration. Opposition opportunities to hold legislation up to public scrutiny have diminished. In December, a Member of Parliament from the opposition Democratic Action Party was suspended without pay for 6 months after publicly criticizing the parliamentary speaker for disallowing discussion concerning corruption in the process of certifying lawyers. The Parliament in 1995 amended its rules to strengthen the power of the Speaker and curb parliamentary procedures heavily used by the opposition. The amendments empowered the Speaker to ban members he considered unruly for up to 10 days, imposed limits on deputies' ability to pose supplementary questions and revisit nongermane issues, and established restrictions on the tabling of questions of public importance. Further measures in 1997 and 1998 limited members' opportunities to question and debate government policies even more severely. In August an amendment to the parliamentary Standing Orders permitted the Speaker to edit written copies of members' speeches before the speeches are delivered. Nonetheless, government officials often faced sharp questioning in Parliament, although this was not always reported in detail in the mainstream press.

State assemblies also limited debate. After the 1969 intercommunal riots, the Government abolished elected local government in favor of municipal committees and village chiefs appointed by state governments. Some politicians and NGO activists have advocated the reintroduction of local government elections. Even some ruling party municipal officials have noted that local bodies are simply "rubber stamps" for the Government.

Women face no legal limits on participation in government and politics; however, the percentage of women in government and politics does not correspond to their percentage of the population. At year's end, 3 of 28 cabinet ministers were women. Women hold 20 of 193 seats in the elected lower house of Parliament, and they hold 19 of 69 seats in the appointed upper house. In January the Prime Minister established the new Ministry of Women's Affairs and Family Development, and appointed a prominent female politician as its first Minister. In May 2000, Tan Sri Doctor Zeti assumed the post of Central Bank Governor. She is the first woman to be appointed to the post. In December 2000, the King announced the appointment of Ainum Mohamed Saa'id as the new Attorney General, the first woman to hold at position. Originally appointed for a 2-year term beginning in January, Ainum, citing ill health, resigned in November, and was replaced at the end of the year. In 1998 the Minister of National Unity and Social Development stated that the country would not achieve its goal of 30 percent female representation in the Government by 2005. The Minister stated that the 1998 rate of participation (defined as the percentage of female representatives in Parliament and in state assemblies) was 6 to 7 percent. The Islamic opposition party does not allow female candidates to stand as candidates for the lower house; however, the Party has a female senator. In the past, it has supported female candidates of other parties.

Ethnic minorities are represented in cabinet-level positions in Government, as well as in senior civil service positions. The percentage of minorities in government and politics roughly corresponds to their percentage of the population. The political dominance of the Malay majority means in practice that ethnic Malays hold the most powerful senior leadership positions. Non-Malays fill 9 of the 28 cabinet posts and 15 of 28 deputy minister positions. An ethnic Chinese leader of a component party of the ruling coalition holds executive power in the state of Penang.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of NGO's, including the Bar Council and other public interest groups, devoted considerable attention to human rights. The Government generally tolerates their activities but often does not respond to their inquiries or press statements. However, Government officials met with NGO's on several occasions during the year. Government officials harshly criticize domestic NGO's for collaborating with foreigners, including international human rights organizations. Nonetheless, at year's end, no group had been banned or decertified. In the past, public apathy and racial divisions (non-Malays had dominated most domestic human rights NGO's) limited the effectiveness of NGO's. However, public discontent over the 1998 removal and subsequent imprisonment of Deputy Prime Minister Anwar encouraged some NGO's to speak out against the Government, and it has led to the increased involvement of ethnic Malays in NGO activity.

In 1998 the Government amended the Companies Act to grant the Registrar of Companies wide powers to block or disband organizations deemed prejudicial to national security or the national interest. In July Parliament amended the Registration of Businesses Act to enable the Registrar to refuse or revoke the registration of organizations deemed to be engaging in unlawful activities (see Section 2.b.).

The Government generally does not allow international human rights organizations to form branches; however, it usually does not restrict access by representatives of international human rights organizations. AI has registered itself as a private company. Several foreign human rights observers have attended sessions of Anwar's two trials.

Since its establishment in April 2000, the National Human Rights Commission has come to be seen by many analysts as a credible monitor of the human rights situation in the country and a check on police activities that lacked previous oversight. The Commission's chairman, Tan Sri Musa Hitam, enjoys broad nonpartisan credibility, and the other Commissioners generally are perceived to be serious and committed to the objectives of the Commission. However, the legislation that created the commission defines human rights as "the fundamental liberties provided for" in the Constitution and restricts the application of the Universal Declaration of Human Rights to those provisions consistent with the Constitution. In 1999, prior to the Commission's creation, opposition leaders and NGO's, including the Bar Council, criticized the definition of human rights as too narrow. Further, the Commission is not empowered to inquire into allegations relating to ongoing court cases and must cease its inquiry if an allegation under investigation becomes the subject matter of a court case.

In April the Commission released its first annual Human Rights Report. The report contended that growing political awareness in the country would challenge the Government to enlarge the space for civil and political rights in the country. The report also identifies restrictions on freedom of assembly and expression, detentions without trial, and discrimination against women, among other issues. In addition to recommending that the Government take steps to permit freedom of assembly, it calls for the Government to ratify three international human rights instruments, namely the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social, and Political Rights; and the Convention against Torture.

During the year, Commissioners traveled throughout the country to educate community leaders, including police officials, on the purposes of the Commission and the importance of human rights. Commissioners also made several visits to prisons throughout the country to monitor conditions there. The Commission issued press statements and held press conferences after several of their visits; however, the Commission had not published its findings at year's end. Immediately following the detention under the ISA of the opposition activists in April, the Commission issued a unanimous statement calling on the Government to release the detainees or to charge them in open court. In July several Commissioners criticized the Government's use of the ISA to detain several university students (see Sections 2.a. and 2.b.). In a May public statement, the Human Rights Commission stated there were no laws prohibiting Anwar from being sent abroad for the medical treatment of his choice. The statement highlighted the fact that Anwar was in prison for what are typically bailable offenses, and would have had access to the medical treatment of his choice had he been released on bail. In August the Commission released a report calling on the Government to ease restrictions and review laws on public assembly. Also in August, the Commission released its report on police action during the pro-opposition demonstration in a Kuala Lumpur suburb in November 2000. The report highlighted incidents of police violence, including against members of a crowd that was already dispersing, and of police mistreatment of some individuals who had been detained during the event.

Many of the Commission's actions and statements have challenged governmental authority and angered government officials, including the Prime Minister. In its responses to Commission actions, the Government often has underscored the legal impotence of the Commission and accused it of overstepping the boundaries of its authority. Responding to the August report on the opposition demonstration, for example, the Prime Minister defended the actions of police and accused the Commission of being influenced by Western thinking.

Although initially skeptical of the Commission, some civil society representatives and leaders of the political opposition have applauded the quasi-governmental body for its willingness to take independent stands on important human rights issues and for working to uphold human rights. Many observers acknowledged that the Commission had become a credible check on police authority where none existed before. Some saw it as among the few institutions in society with any ability to challenge, however distantly, executive control. Others accused the Commission of refusing to take on serious issues and failing to assert its legal authority at critical times. Among other criticisms, political activists mention the Commission's unwillingness to look into the inter-ethnic violence in the Kuala Lumpur slum of Kampung Medan, and human rights NGO's note the Commission's failure to insist on gaining timely access to the individuals detained in April under the ISA. In October Suhakam Chairman Musa Hitam was criticized by NGO's and by opposition politicians for suggesting that human rights would need to take a "back seat" in the fight against terrorism.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution provides for equal protection under the law and prohibits discrimination against citizens based on religion, race, descent, or place of birth. On August 1, the Parliament unanimously approved a Constitutional amendment barring discrimination on the basis of sex. However, discrimination based on some factors persists. For example, government policies give preferences to ethnic Malays in housing, home ownership, the awarding of government contracts, educational scholarships, and other areas. Neither the Constitution nor other laws explicitly prohibit discrimination based on physical or mental disabilities, but the Government has promoted greater public acceptance and integration of the disabled.

Women

Violence against women remains a problem. Spousal abuse has drawn considerable government, NGO, and press attention. According to the Royal Malaysian Police, there were 3,468 cases of domestic violence reported in 2000; however, the Government had not released comprehensive statistics on domestic violence by year's end.

The Domestic Violence Act addresses violence against women in the home. However, women's groups criticized the act as inadequate and called for amendments to strengthen it. In their view, the act fails to protect women in immediate danger by requiring separate reports of abuse to be filed with both the Welfare Department and the police. This requirement causes delay in the issuance of a restraining order against the perpetrator. Women's rights activists also highlighted the fact that because the act is a part of the Penal Code, legal protection for victims is limited to cases in which visible evidence of physical injury is present, despite its interpretation to include sexual and psychological abuse. In April 2000 the Government announced plans to review weaknesses in the law and eliminate legal loopholes; however, the Government had taken no action by year's end.

Although the Government, NGO's, and political parties have established shelters and offer other assistance to battered spouses, activists asserted that support mechanisms for victims of domestic violence remain

inadequate. Police responses and sensitivity to complaints of domestic violence have improved, but women's rights activists claim that the police need additional training in handling domestic abuse as well as rape cases.

Domestic violence complaints are rare under Islamic law. Some Shari'a experts have urged Muslim women to become more aware of the provisions of Shari'a that prohibit spousal abuse and provide for divorces on grounds of physical cruelty. Nonetheless, Shari'a generally (each state has a separate code) prohibits wives from disobeying the lawful orders of their husbands. These provisions often present an obstacle to women pursuing claims, including charges of abuse, in Shari'a courts against their husbands, though Muslim women are able to file complaints in the civil courts.

Spousal rape is not a crime. Theoretically a man who raped his wife could face charges of assault; however, women's rights activists claim that no man has been convicted in such circumstances.

Reports of rape are common in the press and among women's rights groups and NGO's. In December 1999, a women's NGO issued a report that stated that the incidence of rape had increased 48 percent in the 5-year period from 1993 to 1998; more than 50 percent of rape victims are under age 16. Statistics from the Royal Malaysian Police show 1,354 reported cases of rape during the year. Many Government hospitals have set up crisis centers where victims of rape and domestic abuse can make reports without going to a police station. NGO's and political parties also cooperate in providing counseling for rape victims. Nonetheless, cultural attitudes and a perceived lack of sympathy from the largely male police force lead many victims not to report rapes. According to the Ministry of Women and Family Development and a leading women's NGO, only 10 percent of rape cases are reported to the police. In a 2000 study involving 417 court files from 7 state capitals and Kuala Lumpur, even when alleged rape is reported, only 1 in 5 cases is heard in court, and only 1 percent of the reported cases resulted in a rape conviction. Some rapists receive heavy punishments, including caning, but women's groups complain that some rapists receive inadequate punishments. The Penal Code states that a convicted rapist shall be punished with imprisonment for a term not less than 5 years and not more than 20 years.

Female genital mutilation (FGM) is condemned widely by international health experts as damaging to both physical and psychological health. According to a well known women's NGO activist, some girls in provincial areas are subject to varying forms of FGM. Some Malay girls receive a tiny ritual cut to the clitoris or participate in a ceremony where a blade is brought close to the clitoris. Almost all Malay women, including Muslim women's activists, do not believe that this constitutes mutilation or reduces a woman's future capacity for sexual pleasure.

A 1998 International Labor Organization (ILO) study estimated that there were roughly 40,000 to 140,000 prostitutes in the country. The Government strongly disputed this estimate, and the police stated that they would investigate NGO's that might have provided the information that formed the basis of the study. Since prostitution itself is not illegal, statistics are only available for foreigners arrested for immigration or other offenses with suspected involvement in prostitution. The Royal Malaysian police arrested 2,338 foreign women with suspected involvement in prostitution during 2000 (see Section 6.f.). Sex tourism is not legal, and the level of such activity is not believed to be high.

The number of foreign persons arrested with suspected involvement in prostitution is increasing. Police attribute the increase to more vigorous enforcement efforts. Police also believed that the increasing number of arrests was a result of greater numbers of women trafficked to the country from countries of the former Soviet Union (see Section 6.f.).

The country is a source and destination country for trafficking in women for purposes of prostitution (see Section 6.f.).

In August 1999, the Ministry of Human Resources issued a Code of Practice on the Prevention and Eradication of Sexual Harassment in the Workplace. Women's groups noted the Code's detailed definition of sexual harassment and attempted to raise public awareness of the problem, but they criticized the fact that adherence to the code is voluntary and not legally binding. Women's rights activists claimed that a law on sexual harassment would be more effective than a code of practice. In the first year following the issuance of the Code, the Human Resources Minister advocated voluntary compliance by employers and advised unions to incorporate policies against sexual harassment into their collective labor agreements. The Malaysian Employers Federation has criticized publicly any attempt to legislate against sexual harassment in the workplace, arguing that government-imposed policies would unduly restrict the management of labor relations.

Since the Code's introduction the number of reported incidents of sexual harassment has risen. The number of cases reported to the Labor Department in 2000 was 61, more than double the 29 cases reported in 1999. However, the Human Resources Ministry acknowledged in 2000 that shame and embarrassment of the victim

often prevent women from reporting sexual harassment. There still are many cultural obstacles to women who try to pursue sexual harassment charges.

Despite increased public awareness of the problem of sexual harassment in the workplace, the Government acknowledged in August 2000 that the reluctance of employers to adopt the Code may force it to enact additional legislation regarding sexual harassment. According to Women and Family Development Minister Shahrizat, only 1 percent of registered companies the country had adopted the code by September. Shahrizat stated in September that her Ministry would conduct a review of the Code's effectiveness in March 2002. In August Human Resources Minister announced the creation of a special monitoring unit in the Labor Department to monitor and investigate discriminatory practices, including sexual harassment, against women in the workplace.

Despite this year's approval of a constitutional amendment banning discrimination based on sex, women continue to be the victims of legal discrimination.

In matters of income tax, government pension benefits, and transmission of citizenship, women are disadvantaged. The cultural and religious traditions of the major ethnic groups also heavily influence the condition of women in society. In family and religious matters, Muslim women are subject to Shari'a, which is not practiced uniformly among the country's 13 states. Polygyny is allowed and practiced to a limited degree. Islamic inheritance law varies by state, but it generally favors male offspring and relatives. However, one state, Negeri Sembilan, provides for matrilineal inheritance. The number of women obtaining divorces under the provisions of Shari'a that allow for divorce without the husband's consent, while small, is increasing steadily.

In August a new Constitutional amendment was enacted, supposedly rendering gender discrimination in immigration policy illegal. Prior to the change, foreign spouses of male citizens and female citizens were treated differently under the law. Male citizens faced fewer legal and administrative obstacles to obtaining permanent residency status for their foreign wives than female citizens with foreign husbands did. While the change allows some foreign men to acquire permanent residence, the new regulations would not apply to foreign laborers who marry female citizens. In addition, foreign women who become estranged or divorced from their citizen husbands would no longer face deportation. These women would be eligible for 12-month social visit passes, and they would be able to apply for permanent residency.

Women's rights advocates assert that women still face discriminatory treatment in Islamic courts due to prejudicial interpretation of Islamic family law against women and to the lack of uniformity in the implementation of family laws among the various states. An April 1999 press report described complaints by NGO's and women's groups of rude and insensitive treatment by staff and officers of Islamic courts. Women activists assert that these problems continue.

Muslim couples are required to take premarital courses.

State governments in Kelantan and Terengganu, which are controlled by the Islamic opposition party, made efforts to restrict Muslim women's dress in 2000, but there were no reports of additional restrictions on dress or punitive action against women not adhering to the dress code during the year. The Terengganu state government introduced a dress code in 2000 for government employees and workers on business premises. Terengganu's executive counselor in charge of women's and non-Muslim's affairs claimed that the dress code was designed to protect the image of Muslim women and to promote Islam as a way of life. One Muslim women's NGO criticized the new requirement, stating that forced compliance with a state mandated dress code is not consistent with the values of the Koran, although the law is not known to have been enforced. According to an online resource, Muslim women have previously been fired in Kelantan for not wearing a head covering, although independent sources were unable to verify this report.

Non-Muslim women are subject to civil (secular) law. Changes in the Civil Marriage and Divorce Act increased the protection of married women's rights, especially those married under customary rites. The Guardianship of Women's and Infants Act was amended in 1999 to give mothers equal parental rights. Four states extended the provisions of the amended bill to Muslim mothers. Women's groups urged all states to do the same. In 1999 the Land and Cooperative Development Ministry announced that it was considering amending the Group Settlement Act to give wives of settlers a stake in the land awarded to their husbands, but no change has been implemented.

In January the Prime Minister established a Cabinet post for Women's Affairs and Family Development. Shahrizat Abdul Jalil heads the new ministry and is credited with leading the successful effort to amend the federal Constitution to prohibit sex discrimination and launching a public campaign in August against violence in the home.

Government policy supports women's rights and the Government has undertaken a number of initiatives to promote equality for women. The Government also promotes the full and equal participation of women in education and the work force. Women are represented in growing numbers in the professions, but women's groups argue that the level of participation is still disproportionately low; however, in the scientific and medical fields, women make up more than half of all university graduates and the total representation of women at universities increased from 29 percent in 1970 to over 50 percent of the student population in recent years. According to statistics released in the Government's Economic Report 2000-01, which was published by the Ministry of Finance, women constitute 44 percent of the labor force. The proportion of women in the civil service rose from roughly 33 percent in 1990 to roughly 44 percent during the year, and women occupy some high-ranking civil service positions. In 1999 Malaysian Trade Union Congress President Zainal Rampak urged trade unions to fulfill the ILO policy of filling 30 percent of leadership positions with women. According to the national union of bank employees, 65 percent of members are women, but only one out of eight principal officials is a woman.

Children

The Government has demonstrated a commitment to children's rights and welfare; it spends roughly 20 percent of the national budget on education. The Government provides free education for children through the age of 15. Although primary education is deemed compulsory by the Government, there is no legal requirement or enforcement mechanism governing school attendance. Actual attendance at primary school is 96 percent. Secondary school attendance is 82 percent. A variety of programs provide low cost health care for most children. An office in the Ministry of National Unity and Social Development oversees children's issues.

In December 2000, Parliament passed the Child Act of 2000; however, the act has not yet entered into force. The act incorporates the principles of the U.N. Convention of the Rights of the Child, which the Government has ratified. The act stipulates heavier punishments for child abuse, molestation, neglect, and abandonment. It also mandates the formation of a children's court, which, the Government stated, would better protect the interests of children. The bill allows caning, but this punishment is limited to male children, who may receive a maximum of 10 strokes with a "light cane." Entry into force of the new law would repeal three other laws governing child prostitution, child abuse, and delinquency, including the Women and Girls Protection Act, the Juvenile Courts Act, and the Child Protection Act.

The Government recognizes that sexual exploitation of children and incest are problems. Incest in particular is a problem in rural areas. Child abuse receives wide coverage in the press. The Government sternly prosecutes cases of child abuse, and child molesters receive heavy jail sentences and caning. However, under the Evidence Act, the testimony of children is accepted only if there is corroborating evidence. This poses special problems for molestation cases in which the child victim is the only witness. Some judges and others have recommended that the Evidence Act be amended to accept the testimony of children and that courts implement special procedures to hear the testimony of children. In August 1999, a physician who studies child abuse acknowledged publicly that sexual abuse of children occurred in the country. In July a women's NGO began promoting an education package about child sexual abuse. The package of booklets, videos and discussion topics are designed for use in primary schools. Forty schools have asked to use the materials, and the NGO hopes the Ministry of Education will to introduce the package into the curriculum of all primary schools.

Statutory rape occurs and is prosecuted. However, Islamic law provisions that consider a Muslim girl an adult after she has had her first menstruation sometimes complicate prosecution of statutory rape. Such a girl may be charged with "khalwat" or "close proximity" (the charge usually used to prosecute premarital or extramarital sexual relations), even if she is under the age of 18 and her partner is an adult. Thus, Shari'a sometimes punishes the victims of statutory rape. Moreover, Shari'a courts sometimes are more lenient with males who are charged with "close proximity." However, in many cases Muslim men are charged and punished for statutory rape under secular law.

Child prostitution exists. However, child prostitutes often are treated as delinquents rather than victims. In 1998 the Minister of National Unity and Social Development stated that 150 to 160 underage girls are detained each year for involvement in immoral activities and sent to rehabilitation centers. Statistics for the apprehension of traffickers are not available (see Section 6.f.).

Child labor occurs in certain areas of the country (see Section 6.d.).

Persons with Disabilities

The Government does not discriminate against persons with disabilities in employment, education, and provision of other state services. However, few public facilities are adapted to the needs of persons with

disabilities, and the Government has not mandated accessibility to transportation or public buildings for persons with disabilities. In August 1999, former Minister of National Unity and Social Development Zaleha said that only 10 percent of residential and commercial buildings were "disabled-friendly." In September 1999, Zaleha announced a cabinet decision to require that 10 percent of houses in all new housing projects be accessible to persons with disabilities. In December 1999, Zaleha reportedly stated that "all buildings" would be made accessible to persons with disabilities within 2 years, although it is not possible to verify that all buildings are accessible to persons with disabilities.

The Government continued to implement efforts made to address the needs of persons with disabilities. In October 2000, the Ministry of Housing and Local Government announced that the uniform building by-laws would be amended to ensure that all newly constructed buildings include a full range of facilities for persons with disabilities, including special parking lots, elevators, and restrooms. By year's end, it was not possible to verify whether building by-laws had been amended. In November 2000, the Human Resources Ministry announced plans to draft a code of ethics for employers to address the needs of persons with disabilities including additional employment opportunities, job discrimination, and disabled-friendly work environments. In November, the Ministry of Human Resources published the code of ethics. In addition the federal budget for the year included several provisions to ease financial burdens on persons with disabilities and improve work, education, and training opportunities. In November 2000, the Human Rights Commission recommended amending the Constitution's antidiscrimination provision to include legal protection for persons with disabilities, but no amendments have been introduced.

Special education schools exist, but they are not sufficient to meet the needs of persons with disabilities population. The Government and the general public are becoming more sensitive to the needs of persons with disabilities. The Government has undertaken many initiatives to promote public acceptance of persons with disabilities, to make public facilities more accessible to persons with disabilities, and to increase budgetary allotments for programs aimed at aiding them. Provisions for persons with disabilities in the 2001 budget include several allowances for tax relief for working spouses of persons with disabilities, full exemption for all medical fees at government hospitals, and full exemption on fees for travel documents. All equipment designed specifically for use by persons with disabilities would also be exempt from all import duties and sales taxes. Recognizing that public transportation is not disabled-friendly, the Government is reducing the excise duty for persons with disabilities on locally made cars and motorcycles by 50 percent.

In 1999 an NGO representing persons with disabilities stated that the persons with disabilities make up 7 percent of the population. Persons with disabilities do not enjoy explicit legal protection against discrimination.

Indigenous People

Indigenous people (that is, the descendants of the original inhabitants of peninsular region of the country and the Borneo states) generally enjoy the same constitutional rights as the rest of the population. However, in practice federal laws pertaining to indigenous people of the peninsular region known as the Orang Asli vest almost total power in the Minister for Rural Development (who oversees the Department of Orang Asli Affairs) to protect, control, and otherwise decide issues concerning this group. The indigenous people of the Borneo states have no special government department dedicated to their concerns. As a result, indigenous people, particularly in peninsular Malaysia, have very little ability to participate in decisions.

Under the Aboriginal People's Act, the Orang Asli who had been granted land on a group basis had no right to own land on an individual basis or to receive titles to land as individuals. The Social Development Ministry announced in 1996 that state governments, which make decisions affecting land rights, had agreed to issue titles to Orang Asli. Amendments were drafted to enable Orang Asli to hold titles on an individual basis. Then-Finance Minister Tun Daim Zainuddin announced in May 1999 that a total of 314,715 acres of land would be reserved for Orang Asli. The Government urged the states to follow up on Daim's announcement. The leader of an Orang Asli NGO welcomed the announcement, but urged the Government to proceed quickly. The NGO pointed out that the total area of land actually reserved for Orang Asli had declined, not increased, since 1990. Surveying and transfer of title apparently has proceeded very slowly; however, during the year, a number of Orang Asli received land titles, and several state governments announced that land was being set aside for Orang Asli. One NGO advocate asserts that the land rights situation of the Orang Asli continues to decline, as land previously set aside as Orang Asli reserve is being re-zoned for development use.

The federal budget for the year provided for a \$26 million (100 million RM) allotment to the Orang Asli community to eradicate poverty, improve education and social welfare, and improve infrastructure of resettlement villages. In addition National Unity and Social Development Minister Siti Zaharah Sulaiman announced in November 2000 a "stay in school" program to address the increasing number of school drop-outs in the Orang Asli community. The Government allocated \$1.2 million (4.8 million RM) for the project. In August the Cabinet approved the formation of a National Advisory Council for the development of Orang Asli. Two NGOs criticized the fact that only 5 out of 17 council members are Orang Asli.

The uncertainty surrounding Orang Asli land ownership makes them vulnerable to exploitation. Logging companies continue to encroach on land traditionally held by Orang Asli and other indigenous groups in the Borneo states. In January Orang Asli in the state of Pahang attempted to block logging trucks from entering their land. According to one NGO, the state ministry of Orang Asli Affairs later gave out cash compensation to placate the protesters. There have been no additional reports of Orang Asli complaints of fraud during this year. In some cases, the Orang Asli have sued to protect their land. In 1996 a suit was brought by Orang Asli Temuans who lost land during the construction of the Kuala Lumpur International Airport highway. Hearings on the case ended in March. A verdict on the case had not been announced by year's end.

Although state law recognizes the right of indigenous people to land under "native customary rights (NCR)," in the Borneo states the definition and extent of these lands have been in dispute. However, in a landmark judgement in May, the High Court in the provincial capital of Kuching, Sarawak, ruled that native customary rights of the indigenous people of Sarawak do not exist because of statute; rather, they are historically recognized rights which existed long before independence. The judgement further recognized that forests, rivers, and streams adjacent to indigenous communities also are included under native customary rights. The state government of Sarawak appealed the decision. Nonetheless, indigenous people in the state of Sarawak continued to protest the alleged encroachment by state and private logging and plantation companies onto land that they consider to be theirs under customary rights. Laws allowing condemnation and purchase of land do not require more than perfunctory notifications in newspapers to which indigenous people may have no access. The result was that many indigenous people were deprived of their traditional lands with little or no legal recourse. In May 2000, the Sarawak state assembly passed amendments to the state land code that the state government stated would increase the rights of indigenous people to exert control over their traditional lands. A group of NGO's disputed the state government's characterization of the legislation and claimed that it would in fact further diminish the ability of indigenous people to defend their rights on land issues. Indigenous people displaced by the Bakun Dam project in Sarawak continue to protest the lack of transparency in the resettlement process, inadequate compensation for their lands and homes, and destruction of their traditional way of life. However, the state government dismissed these complaints, claiming that only the older generation have reservations about the resettlement program.

The National Human Rights Commission received complaints from three different groups representing the indigenous Iban and Penan people in Sarawak in 2000, and the Commission announced its intention to investigate the indigenous people's complaints of illegal encroachment by loggers on their lands and the alleged use of police force by logging companies. In November an NGO working on behalf of indigenous people in the state of Sarawak expressed deep concern over the passage of the state assembly's Land Surveyors Bill, which requires land surveys to be carried out exclusively by state-licensed land surveyors. The NGO claims that indigenous people struggle to prove their land rights and depend on NGO's to assist them with mapping. NGO's help to create maps that can then be used in court to protect NCR land from logging, development, and palm oil cultivation. Without assistance from independent surveyors, the NGO contends that indigenous people are powerless legally to dispute encroachment on their land. In June National Human Rights Commissioner Anuar Zainal Abidin identified violations of rights of indigenous people resulting from construction of the Bakun Dam in Sarawak, including the lack of freedom to choose a location for resettlement and the amount of compensation. A four-member team from the National Human Rights Commission visited northern Sarawak and the Bakun area in October to investigate complaints related to the construction of the dam, logging, palm oil cultivation, and other development projects. The Commission had not released any conclusions or findings from the investigation at year's end.

The Orang Asli, who number roughly 100,000, are the poorest group in the country; however, according to government officials, the Orang Asli gradually are attaining comparable levels of standards of living as other citizens, and the percentage of Orang Asli who lead nomadic lifestyles has dropped to less than 40 percent. Government development projects for the Orang Asli are announced from time to time. However, according to press reports, the head of an NGO working with Orang Asli said in May 2000 that school dropout rates among Orang Asli had increased markedly over previous years, and the percentage of Orang Asli living below the poverty line was increasing as well. Several NGO's complained that Orang Asli were compensated inadequately after they were displaced by a dam project in the state of Selangor.

The trial of a group of five Iban tribesmen charged with the 1999 killing in Sarawak of four Chinese workers who worked for a company that was encroaching on their land ended in September. The High Court in Miri, Sarawak acquitted four of the men, but one 75-year-old man was sentenced to 12 years in prison.

National/Racial/Ethnic Minorities

The Government implements extensive preferential programs designed to boost the economic position of the Malay majority, which remains poorer on average than the Chinese minority. Such preferential programs and policies limit opportunities for non-Malays in higher education, government employment, business permits and licenses, and ownership of land. According to the Government, these programs have been instrumental in

ensuring ethnic harmony and political stability. Ethnic Indian citizens remained among the country's poorest groups. The Chinese Indian minorities do not benefit from the preferential policies that benefit ethnic Malays.

Public questioning of the preference rights of ethnic Malays is a sensitive issue. Senior UMNO officials have warned non-Malays against "playing with fire." In August 2000, a group of youth members of UMNO became unruly at a rally held outside a Chinese assembly hall in the wake of public comments by a Chinese association that allegedly questioned the granting of special rights and privileges for Malays. Some of the demonstrators threatened to burn down the hall. Chinese groups in the ruling coalition demanded action against the perpetrators. The Government had taken no action by year's end.

Section 6 Worker Rights

a. The Right of Association

By law most workers have the right to engage in trade union activity, but only 8.26 percent of labor is represented by 1 of the country's 544 trade unions. Exceptions include certain limited categories of workers labeled "confidential" and "managerial and executive," as well as defense and police officials. With certain limitations, unions may organize workplaces, bargain collectively with employers, and associate with national federations. No legal barrier prevents foreign workers from joining a trade union; however, the Immigration Department places conditions on foreign workers' permits that effectively bars them from joining a trade union (see Section 6.e.).

The Trade Unions Act prohibits interfering with, restraining, or coercing a worker in the exercise of the right to form trade unions or in participating in lawful trade union activities. However, the act restricts a union to representing workers in a "particular establishment, trade, occupation, or industry or within any similar trades, occupations, or industries," contrary to International Labor Organization (ILO) guidelines. The Director General of Trade Unions may refuse to register a trade union and, in some circumstances, may also withdraw the registration of a trade union. When registration has been refused, withdrawn, or canceled, a trade union is considered an unlawful association. The Government justifies its overall labor policies by positing that a "social compact" exists wherein the Government, employer, and worker are part of an overall effort to create jobs, train workers, boost productivity and profitability, and ultimately provide the resources necessary to fund human resource development and a national social safety net. Trade unions from different industries may join in national congresses, but the congresses must register as societies under the Societies Act (see Section 2.b.).

In January 1999, the Trade Unions Department reported that in 1998 it had issued notices to 206 trade unions threatening them with deregistration for failing to submit reports of their accounts. During the year, no unions reported that they had been deregistered. Some labor leaders claim that the registration of new unions can be delayed for years. Also in February 1999, the Human Resources Minister stated publicly that union members' complaints against union leaders were increasing, and that the Government would amend the Trade Unions Act to make all principal officers of a union liable if the union commits any wrongdoing (currently only the secretary general is liable). However, the Trade Unions Act has not yet been amended. Some trade unionists claimed that unions that defy government policies face more intense scrutiny, potentially leading to deregistration. However, there were no reports that unions were deregistered for this reason.

In September 1999, Malaysian Trade Union Congress (MTUC) leader Zainal Rampak complained about delays in registering new unions, and called on the Government to amend the Industrial Relations Act to allow automatic union recognition. In February 2000, Zainal stated that approximately 100 unions had not been recognized by their employers, despite provisions under the Industrial Relations Act that require an employer to recognize a union within 21 days. There were no reports that any additional unions have been recognized.

The MTUC continued to call on the Government to ratify ILO Convention 87, which provides for the freedom to join a union; at year's end, the Government still had not done so.

Government policy inhibits the formation of national unions in the electronics sector, the country's largest industry. The Government believes that enterprise-level unions are more appropriate for this sector. In February 2000, the Minister for Human Resources stated that employers should not obstruct the formation of in-house unions. According to MTUC Secretary General G. Rajasekaran, 150,000 electronics workers still were unable to organize and only 8 in-house unions have been formed in the electronics industry. Collective bargaining agreements are limited in those companies designated as "pioneer status." According to the ILO, the Government has been promising to repeal this statute since 1994.

Even in-house unions sometimes face difficulties. For example, in 1999 an electronics company was picketed

by workers several times during the year. Workers called on the company to end litigation and conclude a collective bargaining agreement that has been pending for 12 years. Workers claimed that the company had refused to meet union officials, even though the Department of Trade Unions recognized the union. The dispute remained unresolved, and with the economic slowdown, the company's future is uncertain.

Unions maintain independence both from the Government and from political parties, but individual union members may belong to political parties. Although union officers by law may not hold principal offices in political parties, individual trade union leaders have served in Parliament. Trade unions are free to associate with national labor congresses, which exercise many of the responsibilities of national labor unions, although they cannot bargain for local unions.

Although strikes are legal, the right to strike is restricted severely. The law contains a list of "essential services" in which unions must give advance notice of any industrial action. The list includes sectors not normally deemed essential under ILO definitions.

The Industrial Relations Act requires the parties to notify the Ministry of Human Resources that a dispute exists before any industrial action (strike or lockout) may be taken. The Ministry's Industrial Relations Department then may become involved actively in conciliation efforts. If conciliation fails to achieve settlement, the Minister has the power to refer the dispute to the Industrial Court. Strikes or lockouts are prohibited while the dispute is before the Industrial Court. The act prohibits employers from taking retribution against a worker for participating in the lawful activities of a trade union. When a strike is legal, these provisions prohibit employer retribution against strikers and leaders. Although some trade unions questioned their effectiveness, it is not possible to assess fully whether these provisions are being enforced effectively, given the limited number of cases of alleged retribution.

Strikes are extremely rare. In January 1999, the Deputy Human Resources Minister said that the (1997 and 1998) economic downturn was "not affecting industrial harmony" and noted that the country still seldom had strikes.

There were no strikes reported during the year, but in June 2000, 130 employees of a cooking oil refinery in Johor staged a peaceful picket line to protest a deadlock in negotiations over a new collective bargaining agreement. Also in June 2000, several thousand workers were fired after a wildcat strike in which employees accused a Tawain textile firm of refusing to recognize the union and of mistreating workers. The employer reinstated the workers after further protests.

There are two national labor organizations. The MTUC is a federation of mainly private sector unions. The Congress of Unions of Employees in the Public and Civil Service (CUEPACS) is a federation of civil servant and teacher unions. Although the law grants public servants the right to organize at the level of ministries and departments, the Government has not responded to ILO requests for specific information on the numbers and categories of civil servant employees covered or details regarding the collective bargaining agreements reached. There are three national joint councils representing management and professional civil servants, technical employees, and nontechnical workers. In May 1999, various trade unions representing port workers announced plans to form a federation, potentially including 12,000 workers. At year's end, the federation still had not been recognized by the federal registrar of trade unions. In February 2000, the Government approved the establishment of a federation of airline unions that would represent about 20,000 employees in the aviation industry.

The Workmen's Compensation Act includes both local and foreign workers; however, foreign domestic workers have no protection under the act.

Enterprise unions can associate with international labor bodies and do so. The International Metal Workers Federation is working with enterprise unions in the electronic sector to form a national union.

b. The Right to Organize and Bargain Collectively

Workers have the legal right to organize and bargain collectively, and collective bargaining is widespread in those sectors where labor is organized. The law prohibits antiunion discrimination by employers against union members and organizers. Charges of discrimination may be filed with the Ministry of Human Resources or the Industrial Court. Critics say that the Industrial Court is slow in adjudicating worker complaints when conciliation efforts by the Ministry of Human Resources fail. However, others point out that the Industrial Court almost always sides with the workers in disputes. In August 1999, the press reported an MTUC survey that indicated that employers often ignore Industrial Court judgments with impunity. In January 2000, the Minister of Human Resources stated that more Industrial Court chairmen would be appointed to deal with a backlog of more than

100 cases and noted that the courts were so congested that new cases could not be scheduled until January 2001. During the year, the number of Industrial Court chairman was increased from 9 to 14. An opposition politician stated in March 2000 that the backlog of cases approached 5,000. This large backlog of cases continued to be a problem during the year.

The Government holds that issues of transfer, dismissal, and reinstatement are internal management prerogatives; therefore, they are excluded from collective bargaining, which is not in accordance with ILO standards. The Minister of Human Resources can suspend for up to 6 months any trade union that he deems is being used for purposes prejudicial to or incompatible with security or public order.

Companies in free trade zones (FTZ's) must observe labor standards identical to those in the rest of the country. Many workers in FTZ companies are organized, especially in the textile and electrical products sectors. The ILO continues to object to legal restrictions on collective bargaining in "pioneer industries."

c. Prohibition of Forced or Compulsory Labor

The Constitution prohibits forced or compulsory labor, and the Government generally enforces this prohibition; however, trafficking in women, and occasionally girls, for the purpose of prostitution is a problem (see Sections 6.d. and 6.f.). In theory certain laws allow the use of imprisonment with compulsory labor as a punishment for persons who express views opposed to the established order or who participate in strikes. However, the constitutional prohibition renders these laws without effect.

The Government prohibits forced and bonded labor by children, and there were no reports that such practices occur.

d. Status of Child Labor Practices and Minimum Age for Employment

The Children and Young Persons (Employment) Act prohibits the employment of children younger than the age of 14. The act permits some exceptions, such as light work in a family enterprise, work in public entertainment, work performed for the Government in a school or in training institutions, or work as an approved apprentice. In no case may children work more than 6 hours per day, more than 6 days per week, or at night.

Child labor occurs in certain areas of the country. There is no reliable estimate of the number of child workers. Most child laborers work informally in the plantation sector, helping their parents in the field. However, only adult members of the family receive a wage. In urban areas, child labor can be found in family food businesses, night markets, and small-scale industries. Government officials do not deny the existence of child labor in family businesses, but maintain that foreign workers largely have replaced child labor and that the Government vigorously enforces child labor provisions. In September 2000, the Government ratified the International Labor Convention 182 on the prohibition and elimination of the worst forms of child labor. Forced and bonded labor by children is prohibited and generally is rare; however, occasional trafficking in girls for the purpose of forced prostitution is a problem (see Section 6.c. and 6.f.).

e. Acceptable Conditions of Work

There is no national minimum wage, but the Wage Councils Act provides for a minimum wage in those sectors or regions of the country where market-determined wages are insufficient. Under the law, workers who believe that they need the protection of a minimum wage may request that a wage council be established. However, few workers are covered by minimum wages set by wage councils, and the Government prefers to let market forces determine wage rates. Minimum wages set by wage councils generally do not provide a decent standard of living for a worker and family. However, prevailing wages, even in the sectors covered by wage councils, are higher than the minimum wages set by the wage councils and often do provide a decent living. In May 2000, the Human Resources Minister stated that nonunion labor would be brought under the wage council system, but this change has yet to be implemented. In May 1999, former Human Resources Minister Datuk Lim Ah Lek said that the Government was not against a minimum wage, but that it was not ready to set the amount at \$316 (1,200 RM) per month (as proposed by some unions). In June 2000, Human Resources Minister reiterated that the Government was not opposed to a minimum wage and said that his ministry wanted to discuss with the MTUC the manner in which the MTUC calculated its new proposal for a \$237 (900 RM) per month minimum wage. The Government is still studying the MTUC's proposal.

Plantation workers generally receive production-related payments or daily wages. In February the National Union of Plantation Workers (NUPW) and the Malaysian Agriculture Producers Association (MAPA) agreed on a monthly minimum wage for palm oil plantation workers of \$84 (325 RM) per month. Proponents of the

agreement argue that productivity incentives and bonuses raise the prevailing wage to nearly \$184 (700 RM). Rubber plantation workers still have no minimum wage.

Under the Employment Act, working hours may not exceed 8 hours per day or 48 hours per workweek of 6 days. Each workweek must include a 24-hour rest period. The act also sets overtime rates and mandates public holidays, annual leave, sick leave, and maternity allowances. The Labor Department of the Ministry of Human Resources enforces these standards, but a shortage of inspectors precludes strict enforcement. In May 2000, the Appeals Court ruled that a company must give proper notification to its workers when selling its business to another entity. The Appeals Court ruled that compelling an employee to work for a new employer without offering the option to terminate the labor contract amounted to a form of forced labor. The Appeals Court ordered the employers to compensate the workers for failing to give proper notification of sale as prescribed by the Employment Act.

Legal and illegal foreign workers from Indonesia, the Philippines, Burma, Thailand, India, Bangladesh, and other countries constitute about 20 percent of the work force. These workers occupy a wide range of menial jobs in the agricultural, industrial, and service sectors. Workers without labor permits have no legal protection under labor laws, and legal workers are prevented from joining trade unions by restrictions imposed by the Immigration Department on their work permits. The MTUC stated in December 1999 that foreign workers should be allowed to organize, but that one of the benefits of a minimum wage law would be to reduce the country's dependence on foreign workers. The Government states that it does not "encourage" foreign workers to join unions and that labor laws are adequate to protect foreign workers' interests.

Significant numbers of contract workers, including numerous illegal immigrants, work on plantations and in other sectors. According to statistics from the NUPW, foreign workers make up 39 percent of the plantation work force, though the number could be higher since there are illegal workers. Working conditions for these laborers compare poorly with those of direct-hire plantation workers, many of whom belong to the NUPW. Moreover, immigrant workers in the construction and other sectors, particularly if they are illegal aliens, generally do not have access to the system of labor adjudication. Government investigations into this problem have resulted in a number of steps to eliminate the abuse of contract labor. For example, besides expanding programs to regularize the status of immigrant workers, the Government investigates complaints of abuses, attempts to inform workers of their rights, encourages workers to come forward with their complaints, and warns employers to end abuses. Like other employers, labor contractors may be prosecuted for violating the labor laws.

The local press reported several cases of abuse of foreign domestic workers in 2000; during the year, a local women's NGO offered shelter to 13 foreign domestic workers who claimed they had been abused. The majority of such cases involved Indonesian women. Foreign domestic workers have no protection under labor laws. Some of the victims claimed that their employers subjected them to inhuman living conditions, withheld their salaries, and physically assaulted them. Two high-profile cases in 2000 involved young Indonesian women who reportedly were raped multiple times by their employers. No details of these cases have been reported to the public, and there were no developments to the cases during the year. In February 2000, the Government acknowledged the problem, and Minister of Human Resources Datuk Fong Chan Onn announced that abused foreign domestic servants may be eligible for compensation under the Workmen's Compensation Act. The Cabinet commissioned a study of the issue to determine what measures for protection, compensation, and a legal course of action should be available to victims under the act, although it has not been verified if the study was completed. In October 2000, the local press reported four separate cases of physical abuse against foreign domestic workers that were settled when the accused offered compensation to the victim. The Criminal Procedure Code allows certain offenses to be "compounded" with the consent of the complainant, if the perpetrator compensates the victim. The Human Rights Committee of the Bar Council claimed that the settlement gave the public "the overall impression that justice can be bought." A human rights NGO activist called the settlement a "dangerous trend."

An Occupational Safety and Health Act (OSHA) covers all sectors of the economy except the maritime sector and the military. The act established a national Occupational Safety and Health Council, composed of workers, employers, and government representatives, to set policy and coordinate occupational safety and health measures. It requires employers to identify risks and take precautions, including providing safety training to workers, and compels companies that have more than 40 workers to establish joint management-employee safety committees. The act requires workers to use safety equipment and to cooperate with employers to create a safe, healthy workplace. Trade unions maintain that relatively few committees have been established and, even in cases where they exist, they meet infrequently and generally are ineffective. In June the Human Resources Ministry announced a new regulation to protect laborers performing hazardous work in confined spaces such as manholes and storage tanks. Employers are obliged to fulfill certain safety and technical requirements before beginning any projects in confined spaces.

In September 2000, MTUC president Zainal Rampak called for a review of the three-shift system in the

electronics industry, referring to a study that concluded that the system contributed to severe stress and workplace accidents among the industry's mainly female work force. Government health and safety officials defended the system, claiming that it provides adequate safeguards for conscientious employers and workers.

Work-related accidents are especially high in the plantation sector. According to the Human Resources Ministry, 14 percent of all reported industrial accidents during the year occurred on plantations. The NUPW asserts that the number of accidents during the year in the plantation sectors is about equal to the accident rate during 2000.

Employers or employees that violate the OSHA are subject to substantial fines or imprisonment for up to 5 years. There are no specific statutory or regulatory provisions that provide a right for workers to remove themselves from dangerous workplace conditions without arbitrary dismissal.

f. Trafficking in Persons

The Constitution prohibits slavery; however, this provision has not been invoked in cases of trafficking in persons, and trafficking in women, and occasionally girls, for the purpose of prostitution is a problem.

The country is a source and destination country for trafficking in women and girls for sexual exploitation. Young women from primarily Indonesia, China, Thailand, and the Philippines are trafficked into Malaysia for sexual exploitation. There also are reports that Burmese adults are trafficked to Malaysia.

The Royal Malaysian Police arrested 3,607 foreign prostitutes in 2000. Police believe that number of arrests in 2000 was a result of a greater numbers of women being brought to the country from countries of the former Soviet Union. There are allegations that some level of corruption must exist among law enforcement since some trafficking victims have been known to pass through two or more ports of entry without travel documents. Most foreign prostitutes in the country still come from Indonesia, the Philippines, Burma, Thailand, and China. These women often work as karaoke hostesses, "guest relations officers," and masseuses.

Malaysian women are trafficked for sexual purposes mostly to Singapore, Macau, Hong Kong, and Taiwan, but also to Japan, Australia, Canada, and the United States. According to police and Chinese community leaders, Malaysian women who are victims of traffickers are almost exclusively ethnic Chinese, although ethnic Malay and ethnic Indian women work as prostitutes domestically. Police and NGO's believe that Chinese criminal syndicates are behind most of the trafficking (both incoming and outgoing) of women of all nationalities.

Individual government officials may provide counterfeit documents illicitly to traffickers (although no specific cases were reported), but government agencies try to eradicate corruption and fraud within their ranks. Trafficking victims are kept compliant through involuntary confinement, confiscation of travel documents, debt bondage, and physical abuse. The Penal Code includes special provisions related to trafficking only for purposes of prostitution. Specific sections of the Penal Code prohibit the sale or hire of anyone under 21 for purposes of prostitution. Another section prohibits the importing of any woman for purposes of prostitution. Punishment for these offenses includes a maximum 10-year prison term or a fine, to be determined at the discretion of the sentencing judge. In November 2000, the local press reported that implementation of the Child Act 2000, which would automatically repeal the Women and Girls Protection Act, would create a legal loophole that decriminalized procurement which is covered only by the Women and Girls Protection Act. The press reported that the Ministry of National Unity and Social Development was working with the Attorney General's drafting department to close the loophole before the act entered into force, but no developments were reported at year's end.

The Government assists underage girls and has rescued some kidnaped women. Police often raid venues of prostitution. For example, Selangor state police stated that they raided 1,230 suspected "vice dens" during 1999. However, NGO's and women's rights activists complain that police have no coherent policy to protect victims of trafficking. Rather than prosecute traffickers, police generally arrest or deport individual women for immigration offenses. Some trafficking women who exhibit signs of physical abuse may be sent to a woman's shelter instead of being kept by the police; however, permission from the police to allow victims to reside in a shelter is sometimes difficult to obtain. Statistics for apprehension of traffickers are not available. From 1998 through June, 130 individuals involved in the harboring of prostitutes were placed under "restricted residence." The Restricted Residence Act is designed to deter organized criminal activity and requires individuals to temporarily move to a predetermined location far from their usual domicile, and check in regularly with police. However, the Government maintains it has not prosecuted anyone for the offense of trafficking of persons. There are active NGO's that provide assistance to trafficking victims. NGO shelter provides counseling and medical and legal referrals, but the Government does not appear to support financially the work of NGO's. Repatriated Malaysian victims are eligible for public assistance and at least one community-based organization offers services such as counseling to victims.

A local women's NGO is working with the Malaysian Bar Council to draft legislation specifically aimed at prosecuting traffickers and protecting victims.